

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 21

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, April 25, 2006
9:40 a.m.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

George Kolb, City Manager; Doug Moshier, Senior Assistant Attorney, Department of Law; Patsy Eichacker, Deputy City Clerk; present.

The Minutes of the April 18, 2006 meeting were approved 7 to 0.

CONSENT AGENDA

Motion--
--carried

Mayans moved that all Consent Agenda Items be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED APRIL 24, 2006.

Bids were opened April 21, 2006, pursuant to advertisements published on:
PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications:

Village Parkway from the west line of Ridge Road to the east line of Lot 5, Block 1 to serve North Ridge Village Addition - north of 37th Street North, west of Ridge. (472-84201/ 765939/490052)
Traffic on Ridge Road shall be maintained thru construction. (District V)

Cornejo and Sons Construction - \$536,447.50

Storm Water Drain #254 to serve North Ridge Village Addition - north of 37th Street North, west of Ridge. (468-83978/751403/485294); AND Storm Water Drain #255 to serve North Ridge Village Addition - north of 37th Street North, west of Ridge. (468-83979/751408/485299) Does not affect existing traffic. (District V)

Pearson Excavating Inc. - \$250,325.40* (Total aggregate bid)
*Corrected Total

Lateral 394 Four Mile Creek Sewer to serve Whispering Lakes Estates Addition - south of Harry, west of 159th Street East. (468-84142/744168/480856) Does not affect existing traffic. (District II)

WB Carter Construction - \$52,170.00 (Negotiated to engineer's estimate)

Motion--
--carried

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: New ADA Restroom for McAdams Park.

Caro Construction Co., Inc. - \$22,498.00 (Total net bid)

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 22

PARKS & RECREATION DEPARTMENT/GOLF DIVISION: Four-Wheel Golf Carts.

EZGO Kansas City - \$71,400.00 (Base bid)
< - 16,800.00 > (Group 1/Option 1/Deduct)
\$54,600.00 (Total base bid)

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: 144 Each – Ultraviolet Lamp Assembly @ \$264/ea. Plus Freight Charges of \$200.00.

Ray Lindsey Company* - \$38,216.00
*Purchasing Utilizing Sole Source of Supply-Ordinance No. 35-856 Section 2.64.020 (b)

Motion-- Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and
--carried best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Edith Boede	Lil Mexico*	1401 East Pawnee
<u>Renewal</u>	<u>2006</u>	<u>(Consumption off Premises)</u>
Ngo T. Thuan	CT-Happy Store	2199 North Woodlawn
Dzung Banh	KC Gas and Groceries #3	1955 South Washington

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion-- Mayans moved that the licenses subject to Staff review and approval be approved. Motion
--carried carried 7 to 0.

PRELIMINARY ESTIMATES:

- Cost of construction of Lateral 6, Main 3, Northwest Interceptor Sewer to serve Eberly Farm Office Park Addition (east of 135th Street West, south of 21st). (District V) (468-84109/744164/480-852). – Total Estimated Cost - \$85,000
- Cost of K-96 Bikepath from Grove Park to Oliver - south of K-96 from west of Hillside to Oliver (District I) (472-83018/785972/399-129). – Total Estimated Cost \$456,000

Motion--carried Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

COUNTRY HOLLOW PETITIONS TO CONSTRUCT PAVING, SANITARY SEWER AND WATER IMPROVEMENTS IN COUNTRY HOLLOW ADDITION, SOUTH OF KELLOGG, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 06-0419

The Petitions have been signed by one owner representing 100% of the improvement districts.

The projects will provide paving, sanitary sewer and water improvements within a residential development located south of Kellogg, east of 127th St. East.

The Petitions total \$1,232,000. The funding source is special assessments.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 23

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district.

Motion--
--carried

Mayans moved that the Petitions be approved; the Resolutions adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-187

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-90157 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-188

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-90158 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-189

Resolution of findings of advisability and resolution authorizing construction of Lateral 390, Four Mile Creek Sewer, 468-84106 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-190

Resolution of findings of advisability and resolution authorizing construction of Lateral 391, Four Mile Creek Sewer, 468-84107 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-191

Resolution of findings of advisability and resolution authorizing constructing pavement on Laguna/Glen Wood, from the 237' east of the west line of Lot 7, Block 4 to the south line of Lot 16, Block 4; paving Sierra Hills from the south line of Laguna to the south line of Lot 1, Block 5; paving Glen Wood Court serving Lots 25 through 39, Block 5 from the east line of Glen Wood to and including the cul-de-sac; paving Glen Wood court serving Lots 13 through 24, block 5 from the east line of Glen Wood to and including the cul-de-sac; and paving Laguna circle serving Lots 2 through 12, Block 5 from the east line of Laguna to and including the cul-de-sac, 472-84353 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 24

RESOLUTION NO. 06-192

Resolution of findings of advisability and resolution authorizing constructing pavement on Gilbert Court serving Lots 1 through 10, Block 1 from the north line of Gilbert to and including the cul-de-sac; paving Gilbert Court serving Lots 1 through 24 and 37, Block 1, from the north line of Gilbert to and including the cul-de-sac, 472-84354 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-193

Resolution of findings of advisability and resolution authorizing pavement for a right turn decel lane on 127th Street East at Gilbert, 472-84355 (south of Kellogg, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

OAK CREEK

PETITION TO CONSTRUCT AN ACCEL/DECEL LANE FOR OAK CREEK ADDITION, SOUTH OF 21ST STREET, WEST OF GREENWICH. (DISTRICT II)

Agenda Report No. 06-0420

On May 3, 2005, the City Council approved two Petitions to construct acceleration/deceleration lanes on the south side of 21st Street, west of Greenwich. The developer has submitted a new Petition to combine the two projects so that they can be built in one phase. The signatures on the new Petition represent 100% of the improvement district.

The project will serve a new commercial development located south of 21st Street, west of Greenwich.

The original project budgets totaled \$181,900. The new project budget is \$200,400. The funding source is Special Assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Motion--
--carried

Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-194

Resolution of findings of advisability and resolution authorizing constructing an accel/decel lane on the south side of 21st Street North from the west property line of Oak Creek Addition to Greenwich Road (south of 21st Street, west of Greenwich) 472-84206, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

HUNTINGTON PARK **PETITION TO CONSTRUCT A SANITARY SEWER IN HUNTINGTON PARK ADDITION, SOUTH OF 13TH STREET, WEST OF MAIZE. (DISTRICT V)**

Agenda Report No. 06-0421

The Petition has been signed by seven owners representing 100% of the improvement district.

The sanitary sewer project will serve a new commercial development located south of 13th, west of Maize.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 25

The Petition totals \$27,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Motion--
--carried

Mayans moved that the Petition be approved, the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-195

Resolution of findings of advisability and resolution authorizing construction of Lateral 134, Westlink Sewer (south 13th, west of Maize) 468-84176, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

BOARD MINUTES

MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Board of Electrical Appeals, February 14, 2006
Police & Fire Retirement Board, February 22, 2006
District IV Advisory Board, March 1, 2006
District VI Advisory Board, March 6, 2006
Board of Code Standards & Appeals, March 6, 2006
Wichita Airport Advisory Board, March 6, 2006
Design Council, March 9, 2006
Wichita Public Library, March 21, 2006

Motion--carried

Mayans moved that the Board Minutes be received and filed. Motion carried 7 to 0.

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

EMERALD BAY

CONSTRUCTION ENGINEERING AND STAKING IN EMERALD BAY ESTATES ADDITION, WEST OF WEST STREET, NORTH OF 21ST STREET. (DISTRICT IV)- SUPPLEMENTAL.

Agenda Report No. 06-0422

The City Council approved the storm water drainage improvements in Emerald Bay Estates Addition on January 24, 2006. On February 7, 2006 the City approved an Agreement with Ruggles & Bohm, P.A. (R&B) to design the improvements. The Design Agreement with R&B requires R&B to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and R&B provides for construction engineering and staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to R&B will be on a lump sum basis of \$31,000 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 26

37th STREET NORTH 37TH STREET NORTH FROM TYLER TO RIDGE. (DISTRICT V)-SUPPLEMENTAL.

Agenda Report No. 06-0423

On June 22, 2004, the City entered into an Agreement with Baughman Company, P.A. for designing improvements to 37th Street North from Tyler to Ridge Road. The fee was \$173,000.

As the design of this project has progressed, staff now feels that the intersection of 37th and Ridge should have signals added to the project scope. Supplemental Agreement has been prepared to authorize the additional design work.

Payment to Baughman Company, P.A. will be on a lump sum basis of \$9,400 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PAWNEE & MCLEAN THE INTERSECTION OF PAWNEE AND MCLEAN. (DISTRICTS III & IV)-SUPPLEMENTAL.

Agenda Report No. 06-0424

On May 4, 2004, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing improvements to the intersection of Pawnee & McLean. The fee was \$29,800.

Kansas Department of Transportation (KDOT) has agreed to participate in the project funding for \$900,000. R&B has been asked to convert the plans to KDOT format in order to conform to KDOT standards. The project limits were extended 150 feet west to the east line of Seneca. A Supplemental Agreement has been prepared that will allow this work to be accomplished.

As originally proposed in the current CIP, the project budget was established at \$810,000, all of which was to be funded with local funds. With the participation by KDOT, the total project budget is now estimated to be \$1,710,000, of which \$900,000 will be funded by KDOT and the balance of \$810,000 by local funds. Payment to R&B for this Supplemental Agreement will be made on a lump sum basis of \$28,400, and will be paid from existing project funds by General Obligations Bonds.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PUBLIC TRANSP. FUNDING FOR PUBLIC TRANSPORTATION.

Agenda Report No. 06-0425

Each year the Federal Transit Administration (FTA) provides grant money for use in providing urban public transportation services. The amount of funding is based upon a complex formula involving miles driven, passenger rides provided, population area and density serviced, etc.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 27

The 2000 census figures enlarged the service area for which the City of Wichita is allowed to seek funds to include all of Sedgwick County and other incorporated entities within the urbanized area (UZA). The City can request funds for public transportation services to enhance the programs of Sedgwick County and the urbanized area, and pass through those funds as determined by the formula. For FY 2006 the pass-through funds will be for a total of \$225,000, of which Sedgwick County will receive \$150,000, Butler County will receive \$25,000, and the City of Derby will receive \$50,000 capital. All figures are 80% federal and 20% matched by the receiving agency.

The City will have no part in operating these transportation programs. It will give guidance for the federal reporting required under the grant. By the attached interlocal agreements, the counties of Butler and Sedgwick will agree to adhere to all federal program requirements attached to the grant. The Law Department has prepared these agreements.

Motion--carried Mayans moved that the interlocal agreements be approved. Motion carried 7 to 0.

ZELTA STREET ZELTA STREET FROM KELLOGG TO WATERMAN. (DISTRICT II)

Agenda Report No. 06-0426

The City Council approved the paving project on November 1, 2005.

The proposed Agreement between the City and Cook, Flatt & Strobel Engineers, P.A. (CF&S) provides for the design of paving Zelta from Kellogg to Waterman. The Staff Screening & Selection Committee selected CF&S for the design on March 3, 2006.

Payment to CF&S will be on a lump sum basis of \$19,812, and will be paid by special assessments and General Obligations Bonds.

The Agreement has been approved as to form by the Law Department.

Motion-- Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

REED'S COVE REED'S COVE FOURTH ADDITION, EAST OF 127TH STREET EAST, SOUTH OF 21ST STREET. (DISTRICT II)

Agenda Report No. 06-0427

The City Council approved the water distribution system, sanitary sewer and paving improvements in Reed's Cove 4th Addition on February 28, 2006.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Reed's Cove 4th Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$49,700 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion-- Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 28

TURKEY CREEK

DESIGN SERVICES-TURKEY CREEK SECOND ADDITION - NORTH OF PAWNEE, WEST OF 119TH STREET WEST. (DISTRICT IV)

Agenda Report No. 06-0428

The City Council approved the water distribution system, sanitary sewer and paving improvements in Turkey Creek 2nd Addition on March 1, 2005.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Turkey Creek 2nd Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$57,200 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

LIBERTY PARK

LIBERTY PARK SECOND AND THIRD ADDITION, SOUTH OF 13TH STREET, EAST OF 135TH STREET WEST. (DISTRICT V)

Agenda Report No. 06-0429

The City Council approved the water distribution system, sanitary sewer and paving improvements in Liberty Park 2nd & 3rd Additions on August 2, 2004.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Liberty Park 2nd & 3rd Additions. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$57,600 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

KRUG NORTH

CHANGE ORDER: STORM WATER DRAIN IN KRUG NORTH ADDITION NORTH OF 21ST, WEST OF 143RD ST. EAST. (DISTRICT II)

Agenda Report No. 06-0430

On August 23, 2005, the City Council approved a contract with Jayhawk Contractors, Inc. for drainage improvements in Krug North Addition, located north of 21st, west of 143rd St. East. The developer of the subdivision has requested that a stockpile of pond liner material be moved off of several lots so home construction can begin. In addition, grade revisions require soil excavation in excess of the amount expected at the time that the construction contract was awarded.

A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 29

The cost of the additional work is \$24,778 with the total paid by special assessments. The original contract amount is \$373,366. This Change Order represents 6.64% of the original contract amount.

The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

The City Council approved the water distribution system, sanitary sewer and paving improvements in Turkey Creek 2nd Addition on March 1, 2005.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Turkey Creek 2nd Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$57,200 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION BY EMINENT DOMAIN FOR THE WEST 29TH STREET NORTH ROAD IMPROVEMENTS FROM 119TH STREET WEST TO MAIZE ROAD. (DISTRICT V)

Agenda Report No. 06-0431

In January 2006, staff was instructed to pursue acquisition of several tracts of land needed for roadway and storm water drainage improvements along West 29th Street between 119th Street North and Maize Road. There are eight tracts required for the project. All are 30-foot side strips from unplatted, residentially zoned tracts. Five of the eight tracts have been acquired. The project will require 39,882 square feet of the property at 10825 West 29th. This parcel has a total of 829,818 square feet (or 19.05 Acres) and is improved with a single-family residence, which will not be affected by the proposed road project. The project also requires 35,292 square feet from the undeveloped 302,747 square foot tract at the northwest corner of Maize and 29th. 10720 West 29th are improved with a single-family residence. Design issues associated with the project require the acquisition of the entire 79,714 square foot site.

City staff has been attempting to negotiate the purchase of the identified properties but have been unable to reach an agreement. The take at 10825 West 29th was appraised at \$68,765 (\$1.70 per square foot). The parcel at the northwest corner of Maize and 29th was appraised at \$34,550 (\$1.70 per square foot). The property at 10720 West 29th was appraised at \$231,000. These amounts were offered to the owners. The owners have rejected these offers but have provided no counter offers. Negotiations with the affected owners will continue during the eminent domain process.

The cost of this acquisition is to be paid by the City at large.

The City is authorized by law to commence eminent domain proceedings to acquire this property.

Motion--

-- carried

Mayans moved that the Resolution be adopted; the Ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition be placed on first reading; and the necessary signatures authorized. Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 30

RESOLUTION NO. 06-196

A Resolution declaring the necessity for acquiring private property for the use of the City of Wichita in connection with planned 29th Street North from Maize to 119th Street West Improvement Project, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ORDINANCE

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of 29th Street North from Maize to 119th Street West Improvement Project, in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof., introduced and under the rules laid over.

PROPERTY ACQ.

ACQUISITION BY EMINENT DOMAIN FOR THE WEST 37TH STREET NORTH ROAD IMPROVEMENTS FROM RIDGE ROAD TO TYLER ROAD. (DISTRICT V)

Agenda Report No. 06-0432

In January 2006, staff was instructed to pursue acquisition of several tracts of land for roadway and storm water drainage improvements along West 37th Street between Ridge Road and Tyler Road. There are five tracts required for the project. These are strip acquisitions along the north line of three residentially zoned parcels and two commercially zoned parcels. The owners of the commercial parcels have agreed to donate the necessary right-of-way and easements. The project requires 9,525.3 square feet from the property at 7717 West 37th Street North. This parcel has approximately 35 acres and is improved with a single-family residence and out buildings. The improvements are distanced from the road and will not be impacted by the project. There are some trees and landscaping within the proposed acquisition area. The project also requires 17,723.9 square feet at 7817 West 37th Street. This property has approximately 20 acres. The improvements are distanced from the road and will not be impacted project. There are landscaped berms and trees within the acquisition area. The third tract impacted by the project is approximately 18.6 acres of vacant agricultural land along the south side of 37th Street, west of 7817 West 37th Street. A strip containing 23,105.1 square feet is required.

The tract at 7717 West 37th Street was appraised at \$7,100. This includes \$3,000 (\$.315 per square foot) for the land plus damages. The owner rejected this offer and countered at \$23,150 based on a land value of \$2.00. The tract at 7817 West 37th Street was appraised at \$16,800. This includes \$4,800 (\$.315 per square foot) for land and \$11,200 for damages to trees and landscaping. This offer was rejected and the owner countered at \$35,000 plus waiving of water and sewer connection fees. The agricultural tract was appraised at \$10,300 (\$.315 per square foot). The owner has not responded to this offer. Staff will continue to negotiate with the owners, but due to the construction schedule for the project, eminent domain proceedings need to be initiated.

The cost of this acquisition is to be paid by the City at large.

The City is authorized by law to commence eminent domain proceedings to acquire this property.

Motion--

Mayans moved that the Resolution be adopted; the Ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition be placed on first reading; and the necessary signatures authorized. Motion carried 7 to 0.

-- carried

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 31

RESOLUTION NO. 06-197

A Resolution declaring the necessity for acquiring private property for the use of the City of Wichita in connection with planned 37th Street North from Ridge Road to Tyler Road Improvement Project, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

ORDINANCE

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of 37th Street North from Ridge Road to Tyler Road Improvement Project, in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof, introduced and under the rules laid over.

PROPERTY ACQ.

ACQUISITION BY EMINENT DOMAIN FOR THE PROPOSED BIKE PATH FROM NORTH OF PAWNEE TO THE KANSAS TURNPIKE. (DISTRICT III)

Agenda Report No. 06-0433

In January 2006, staff was instructed to pursue acquisition of several tracts of land needed for the proposed bike path along Interstate 1-35, Gypsum Creek and George Washington Boulevard from north of Pawnee to the Kansas Turnpike. There are eleven tracts required for the project with five different owners. There are six tracts under two ownerships remaining to be acquired. One tract is a 52 square foot corner clip from the rear of 2742 South Holyoke. The other five tracts are all under one ownership and lay along the north side of Joyland amusement park. The land required from Joyland is 100,980 square feet.

City staff has been attempting to negotiate the purchase of the required tracts but have been unable to reach an agreement. The tract at 2742 South Holyoke was valued at \$100 (\$1.92 per square foot). This amount was rejected by the owner but no counter offer was provided. The Joyland tracts were appraised at \$116,700 (\$1.15 per square foot). Again, this offer was not accepted nor was a counter offer received. Negotiations with the affected owners will continue during the eminent domain process.

The cost of this acquisition is to be paid by the City at large.

The City is authorized by law to commence eminent domain proceedings to acquire this property.

Motion--

Mayans moved that the Resolution be adopted; the Ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition be placed on first reading; and the necessary signatures authorized. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 06-198

A Resolution declaring the necessity for acquiring private property for the use of the City of Wichita in connection with planned bike path along Interstate 135, Gypsum Creek and George Washington Boulevard from North of Pawnee to Kansas Turnpike Improvement Project, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 32

ORDINANCE

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of planned bike path along Interstate 135, Gypsum Creek and George Washington Boulevard from North of Pawnee to Kansas Turnpike Improvement Project, in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof., introduced and under the rules laid over.

EASEMENT

EASEMENT ACROSS A PORTION OF 777 WEST CENTRAL IN CONJUNCTION WITH THE RIVER CORRIDOR IMPROVEMENT PROJECT. (DISTRICT VI)

Agenda Report No. 06-0434

The City of Wichita acquired a portion of 777 West Central for the River Corridor Improvement Project in 2004. The plan calls for the construction of pedestrian bridges linking Exploration Place, the Keeper of the Plains, and the north bank of the Little Arkansas. The riverbank and associated paths will be upgraded and beautified. Also, the Keeper of the Plains statue will be raised and a natural gas-powered pyrotechnic display will be constructed.

In order to supply natural gas to the Keeper of the Plains improvements, a gas line must be constructed from the existing gas line along Central Avenue across the City-owned tract and under the Little Arkansas River to the Keeper site. To accomplish this, an easement must be granted to the gas utility company to allow placement of the line.

The Law Department has approved the easement as to form.

Motion--
--carried

Mayans moved that the easement be approved and the necessary signatures authorized. Motion carried 7 to 0.

TAX CREDIT

KANSAS COMMUNITY SERVICE TAX CREDIT PROGRAM APPLICATION. (DISTRICT VI)

Agenda Report No. 06-0435

Each year since 1994, the Kansas Community Service Program (CSP) has offered a Tax Credit Program for non-profit organizations for use with major capital fund-raising drives for eligible projects. Capital projects eligible for tax credit awards include new facilities or expansion of existing facilities to operate such programs as community service, crime prevention, or health care. Under the program, contributors (usually private for profit companies) receive a tax credit equal to 50% of the amount donated to non-profits for one year following approval of the agency's tax credit application.

The Kansas Community Service Tax Credit Program is administered by the Kansas Department of Commerce. The Department has announced an allocation of \$4.1 million in tax credits for 2007, which will be awarded to eligible non-profit organizations. The application deadline date is May 5, 2006. A Local Government Endorsement is recommended by the Kansas Department of Commerce. If the City does not approve the Local Government Endorsement, the applicant will lose points in the competitive application process.

Wichita Habitat for Humanity, Inc., has submitted a request for Local Government Endorsement for their State tax credit application that assists in raising funds for an in-fill housing project that provides affordable housing for 12 low-income families. Breakthrough Club of Sedgwick County, which provides services to the mentally ill, has also submitted a request for Local Government Endorsement to assist with the purchase and rehabilitation of the former Delta Dental Building located at 1010 North

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 33

Main. The applications have been reviewed by the Housing and Community Services and Planning Departments, and was found to be consistent with the Consolidated Plan, local codes and zoning requirements. (A summary of the applications is attached).

The proposed applications do not obligate the City to the project in any way.

Approval of Local Government Endorsements does not obligate the City to fund any project or provide real property for any project.

Motion--
--carried

Mayans moved that the applications be supported and the Mayor authorized to sign the Local Government Endorsement Forms. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ APRIL 18, 2006).

- a) Acquisition by Eminent Domain of tracts required for the Cowskin Creek Channel Improvement Project from Kellogg to Maple. (District V)

ORDINANCE NO. 47-014

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of the Cowskin Creek Channel from Kellogg to Maple in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

- b) Tax Exemption Request, Cox Machine, Inc. (District V)

ORDINANCE NO. 47-015

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Cox Machine, Inc, so exempted, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

- c) Tax Exemption Request, ZTM, Inc. (District III)

ORDINANCE NO. 47-016

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of ZTM, Inc, so exempted, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 34

- d) Establishment of a Redevelopment District, Tax Increment Financing for the 47th Street and Broadway Redevelopment Project. (District IV)

ORDINANCE NO. 47-017

An Ordinance of the City of Wichita establishing the Broadway & 47th Street Redevelopment District, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

PLANNING AGENDA

Motion-- Mayans moved that Planning Consent Items 14 through 16 be approved in accordance with the
-- carried recommended action shown thereon. Motion carried 7 to 0.

DR2006-04 DR2006-04-REQUEST FOR A STREET NAME CHANGE FROM ARMOUR DRIVE TO TOWNE EAST MALL DRIVE, LOCATED WEST OF ROCK ROAD AND ON THE NORTH SIDE OF KELLOGG. (DISTRICT II)

Agenda Report No. 06-0436

Staff Recommendation: Approve the street name change.

MAPC Recommendation: Approve the plat. (9-0)

On March 9, 2006, the Address Committee held a meeting and recommended that the street name change be approved. The Metropolitan Area Planning Commission approved this request on April 6, 2006.

The intent of the street name change request is to accommodate KDOT's requirements for highway signage in relationship to Towne East Square Mall.

Motion-- Mayans moved that the street name change be approved and the Ordinance placed on first reading.
--carried Motion carried 7 to 0.

ORDINANCE

An Ordinance changing a street name from Armour Drive to Towne East Mall Drive, introduced and under the rules laid over.

WINDOVER ADD. STREET IMPROVEMENT AGREEMENT FOR LOTS 13 AND 14, WINDOVER ADDITION, LOCATED NORTH OF HARRY AND WEST OF WEST STREET. (DISTRICT IV)

Agenda Report No. 06-0437

Staff Recommendation: Approve the Agreement.

This No-Protest Agreement is associated with Lot Split Case No. SUB 2006-05 and is for the future paving improvements on Sabin Avenue.

The lot split will allow for the re-orientation of two lots. These lots are zoned LI, Limited Industrial District. This Agreement assures the City of Wichita that this property will be included in the paving improvements and that the owners have waived their right to protest said paving improvement.

The No-Protest Agreement has been recorded with the Register of Deeds.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 35

Motion--carried Mayans moved that the Agreement be approved. Motion carried 7 to 0.

DED2006-08

DED2006-08-DEDICATION OF A UTILITY EASEMENT, LOCATED NORTH OF HARRY AND WEST OF WEST STREET. (DISTRICT IV)

Agenda Report 06-0438

Staff Recommendation: Accept the Dedication.

This Dedication is associated with a lot split case (SUB 2006-05). The Dedication is for construction and maintenance of public utilities.

The Dedication has been recorded with the Register of Deeds. (D17824).

Motion--carried Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

OFF AGENDA ITEM:
AIRPORT SAFETY OFFICERS AS PARTICIPANTS IN THE CITY'S FIREFIGHTERS RELIEF FUND.

George Kolb City Manager, gave an update of the issues concerning Airport Safety Officers being included in the Firefighters Relief Fund. He reported that the Insurance Commissioner had ruled against the City and for the Airport Safety Officers. He stated that the City's legal counsel will move forward with concerns by meeting with the Insurance Commissioner's legal counsel to review the legal analysis and report back to the City Manager.

Council Member Brewer Council Member Brewer stated that he believes that the decision is not legal, and wants to make sure everything is correct and legal before any action is taken.

Doug Moshier Senior Assistant Attorney, Department of Law, reported that Law Department Staff is planning to meet with the Insurance Commissioner this Thursday, April 27.

Mayor Mayans Mayor Mayans stated that at the March 7th Council Meeting he had asked if the Commissioner of Insurance came back and says that the safety officers are indeed part of the Association, would Staff be willing to include them; and that Gary Rebenstorf, Director of Law, explained that if the Commissioner of Insurance made that determination, then that would be binding upon the City because she has the overall authority in this matter.

Council Member Fearey Council Member Fearey stated she is of the opinion that we need to tread very carefully and make sure that we are correct.

Council Member Martz Council Member Martz stated that he is concerned with other legal challenges that may come forward from other organizations.

Doug Moshier Senior Assistant Attorney, Department of Law, in responding to a question by the Mayor, stated that these are only opinions and that Council could take a vote on the issue and he would not meet with the Commissioner on Thursday.

Mayor Mayans Mayor Mayans asked if the Commissioner came back and says she agrees with the City, would Council vote again, or if she comes back and states that her opinion stands, would Thursday's meeting make a difference.

Council Member Schlapp Council Member Schlapp stated she felt it was important to meet with the Commissioner and present our facts again.

Council Member Gray Council Member Gray stated that he believes the Commissioner should have stated the reason for her opinion.

CITY COUNCIL PROCEEDINGS

JOURNAL 186

APRIL 25, 2006

PAGE 36

Doug Moshier

Senior Assistant Attorney, Department of Law, informed Council the Law Department would make a full report to the City Manager immediately after returning from Thursday's meeting.

RECESS:

Motion--

Mayans moved that the City Council recess at 10:05 a.m. and go into Executive Session at 10:10 a.m., to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to: potential litigation and legal advice, and that the City Council return from Executive Session no earlier than 10:30 a.m. and reconvene in the First Floor Board Room of City Hall. Motion carried 7 to 0.

-- carried

RECONVENE

The City Council reconvened in the First Floor Board Room at 10:33 a.m. Mayor Mayans announced that no action was taken.

Motion--carried

Mayans moved at 10:33 a.m. that the Executive Session be adjourned. Motion carried 5 to 0; (Fearey and Schlapp not present).

Motion--carried

Mayans moved at 10:34 a.m. that the Regular Meeting be adjourned. Motion carried 5 to 0; (Fearey and Schlapp not present).

ADJOURNMENT

The City Council meeting adjourned at 10:34 a.m.

Respectfully submitted,

Patsy Eichacker
Deputy City Clerk