

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 360

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 17, 2004
Tuesday, 9:20 A.M.

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

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Ms. Lakshmi Kambampati, Sanskrit, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the August 10, 2004 regular meeting were approved 7 to 0.

OFF AGENDA ITEM

Council Member Schlapp Council Member Schlapp requested that an off-agenda resolution be taken up.

Motion--carried Schlapp moved that the resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-442

Be it resolved that the Council of the City of Wichita, Kansas, officially congratulates and encourages Caroline Bruce in her quest for an Olympic medal; and

Whereas, Caroline Bruce has for many years exhibited those traits which are most needed for success, especially in an athletic competition: talent, dedication, personal drive and perseverance; and

Whereas, on August 18, 2004, Caroline Bruce, worm class athlete and native Wichitan, will compete in the semi-finals of the 200-meter breaststroke competition in Athens, Greece, and win or lose, she will fulfill a gigantic dream of hers and bring a great deal of pride to the Wichita community; and

Whereas, Caroline Bruce will be personally cheered on in her endeavors by her family, friends and coaches, but will also be in the hearts of all Wichitans who wish her success in this Olympic competition;

Now, Therefore, be It Resolved, that we, the Wichita City Council, join all the citizens of the City of Wichita, in expressing our utmost pride in Caroline Bruce and extend to her our best wishes.

SERVICE CITATION Distinguished Service Citation-Jerry D. Bell.

Mayor Mayans recognized Jerry D. Bell for his service with the City of Wichita.

PROCLAMATIONS Proclamations previously approved were presented.

Mayor Mayans presented the proclamations.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 361

UNFINISHED BUSINESS

640 NORTH MAIN

HPC2004-87-APPEAL OF HISTORIC PRESERVATION BOARD ACTION REGARDING DEMOLITION OF 640 NORTH MAIN. (DISTRICT VI) (DEFERRED FROM JULY 13, 2004)

John Schlegel

Planning Director reviewed the Item.

Agenda Report No. 04-0720A

This Item was originally heard at the July 13, 2004, City Council meeting. City Council deferred this Item to August 17 with instructions for staff to meet with the property owner to discuss alternatives to demolition. After several attempted meetings that were postponed by the property owner, staff was able to schedule a meeting on August 13. Staff will report to the council on August 17 any results of that meeting.

The HPB has a programmatic agreement with the State Historic Preservation Office to review applications for all properties individually listed or listed in historic districts in the state/national register of historic places. The Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S. A. 75- 2724 and the City Code Section 2.12.1023(c), and (f). In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no "feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Michael Greer

Mr. Greer stated that he is with Eby Corporation and that they are asking that the Council approve the appeal to demolish this building. Stated that due to the cost for renovation and the lack of on-site parking they do not feel that there is a viable alternative. Stated that they have a potential buyer that would like to use this land as a parking lot and is asking that the Council consider their appeal.

Council Member Fearey

Council Member Fearey stated that it is sad to see the City continue to lose parts of our history by tearing down buildings.

Motion--
--carried

Fearey moved that the appeal of demolition for 640 North Main be approved, as there is no prudent and feasible alternative for this building. Motion carried 7 to 0.

ADA COMPLIANCE

CITY BUILDINGS AND FACILITIES AMERICANS DISABILITY ACT, (ADA) COMPLIANCE. (DEFERRED FROM AUGUST 10, 2004)

(This Item was pulled from the agenda)

NEW BUSINESS

BOXTHORN

PETITION TO PAVE 127TH STREET EAST FROM BOXTHORN TO APPROXIMATELY 900 FEET NORTH OF BOXTHORN, NORTH OF 21ST STREET. (DISTRICT II)

Jim Armour

Acting City Engineer reviewed the Item.

Agenda Report No. 04-0834

On September 17, 2002, the City Council approved a Petition to pave 127th Street East, from Boxthorn to approximately 900' north of Boxthorn. The Petition was signed by the developers of The Fairmont and Hawthorne Additions. An attempt to award a construction contract within the budget set by the Petition was not successful. The developers have submitted a new Petition with an increased budget.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 362

The signatures on the new Petition represent 2 of 68 (2.9%) resident owners and 68.4% of the improvement district area. August 2, 2004, District II Advisory Board sponsored a neighborhood hearing on the project. The Board voted 5-1 to recommend approval of the project.

The project will provide paved access to new residential developments located along both sides of 127th Street East, north of 21st.

The existing petition totals \$70,000. The new Petition totals \$138,000. 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 the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Schlapp moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-413

Resolution of findings of advisability and Resolution authorizing improving 127th Street East, from the north line of Boxthorn t the north line of the Fairmont, 472-83614 (127th Street East, north of 21st Street), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Schlapp moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

PAVE BICKEL

PETITION TO PAVE BICKEL FROM 8TH TO 9TH STREET, 8TH STREET FROM BICKEL TO GOW, AND GOW FROM MURDOCK TO 8TH STREET.
(DISTRICT VI)

Jim Armour

Acting City Engineer reviewed the Item.

Agenda Report No. 04-0835

The signatures on the Petition represent 21 of 41 (51.22%) resident owners and 35.38% of the improvement district area. District VI Advisory Board sponsored a July 12, 2004, neighborhood hearing on the project. The Board voted 10-0 to recommend approval of the project.

The project will provide paved access to a residential area and storage facility generally located south of 9th, west of Sheridan.

The estimated project cost is \$225,000, with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.285 per square foot of property for lots receiving only a front street assessment and \$00.57 for lots receiving a front and side street assessment. The project does not qualify for 20-year bonds because of the storage business in the improvement district.

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

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Fearey moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

RESOLUTION NO. 04-414

Resolution of findings of advisability and Resolution authorizing improving Bickel Avenue, from the south line of 9th Street North to 8th Street North, on 8th Street North, from Bickel Avenue to the west line of Gow Avenue, and on Gow Avenue, from the south line of 8th Street North to the north line of Murdock Avenue (south of 9th Street, west of Sheridan) 472-84062, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

2004 LLEBG.

2004 LOCAL LAW ENFORCEMENT BLOCK GRANT.

Norman Williams

Chief of Police reviewed the Item.

Agenda Report No. 04-0836

The City has received notification that it is eligible to receive 2004 Local Law Enforcement Block Grant (LLEBG) funding. This is the City's eighth year to receive funding under the LLEBG program. The federal award of \$76,644 requires a 10 percent local match of \$8,516. In the past, the City Council has approved the use of Narcotic Seizure funds for matching purposes. The total project budget will be \$85,160.

The LLEBG agreement states that before any obligation or expensing of funds can occur, an advisory board must be established and allowed to provide non-binding recommendations toward obligating and/or expensing of such funds. On August 4, 2004, the Advisory Board convened to make non-binding recommendations on the use of 2004 LLEBG funds. The Board approved 2004 LLEBG funding as follows: \$50,160 for overtime, \$30,000 for police equipment, and \$5,000 for vehicle rental. A public hearing is needed before obligation or expensing of LLEBG funds can occur.

The 2004 LLEBG federal award is \$76,644. The local match of \$8,516 will be funded from Narcotics Seizure funds.

A public hearing is needed before any obligating or expensing of LLEBG funds can occur.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the public hearing be closed; the 2004 LLEBG grant application and budget be approved; and the necessary signatures be authorized. Motion carried 7 to 0.

CONDEMNATION

REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES. (DISTRICTS I AND III)

Kurt Schroeder

Office of Central Inspection reviewed the Item.

Agenda Report No. 04-0837

On June 22, 2004 a report was submitted with respect to the dangerous and unsafe conditions on two (2) properties. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on August 17, 2004.

On June 7, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

<u>Property Address</u>	<u>Council District</u>
a. 2560 South Roosevelt	III
b. 2361 North Poplar	I

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 364

Pursuant to State Statute, the Resolutions were duly published twice on June 24, 2004, and July 1, 2004. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of each described property.

b.) 2361 North Poplar.

Motion--

Mayans moved that the public hearing be closed; the Resolutions declaring the building as dangerous and unsafe structure be adopted; and the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure be accepted.. Any extensions of time granted to repair the structure would be conditioned on the following: (1) All taxes have been paid to date, as of August 17, 2004; (2) the structures have been secured as of August 17, 2004 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of August 17, 2004 and will be so maintained during renovation. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-420

Resolution finding that the structure described as: Lot 2, Block U, Audrey Matlock Heights 1st Add., City of Wichita, Sedgwick County, Kansas, commonly known as 2361 North Poplar, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0.

a.) 2560 South Roosevelt.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Mohand Kampati

Mr. Kampati stated he could not secure funds to remodel this building and that they decided to put it up for sale. Stated that they have someone interested in purchasing this property and her plans are to fix it up and that she has put down a \$1,000.00 deposit. Mr. Kampati stated that he would like to have more time allowed for the potential buyer to fix up the property.

Motion--

Lambke moved to grant an extension of 10 days to remove any debris and weeds from the premises and an extension of 60 days to fix the exterior repairs and if this is not accomplished at this time to proceed with condemnation. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-419

Resolution finding that the structure described as Lot 55, Block E, Planeview Sub. No. 1, City of Wichita, Sedgwick County, Kansas, commonly known as 2560 South Roosevelt, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0.

ORDER OF BUSINESS CHANGES TO THE ORDER OF BUSINESS AT REGULAR MEETINGS.

Gary Rebenstorf

Director of Law reviewed the Item.

Agenda Report 04-0838

The City Council regular meeting agenda is divided into general sections and the order in which the sections of the agenda are considered by the City Council are established by ordinance. An ordinance amendment is proposed to change the order of business at regular City Council meetings.

The City Council has considered changes to the order of business with the goal of having City Council meetings being more accommodating to citizens, neighborhood associations, community groups, business entities and associations, profit and non-profit companies, other governmental entities, and all others that have business to conduct with the City.

The proposed ordinance amendment addresses two sections of the Council's Rules of Procedure to change the order of business for regular City Council meetings. One ordinance section contains the detailed order of business and the other ordinance section references the order of business.

CITY COUNCIL PROCEEDINGS

Under the proposed amendments, the order of the agenda would be changed, beginning with the City Council meeting of September 14, 2004. Below is a side-by-side comparison of the new order of business with the current order of business. The column on the left is the new order of business that would appear for the September 14, 2004 Agenda. The column on the right is the current agenda order, as it appears for the August 17, 2004 Agenda.

<u>NEW</u>	<u>CURRENT</u>
CITY COUNCIL	CITY COUNCIL
CITY OF WICHITA, KANSAS	CITY OF WICHITA, KANSAS
City Council Meeting	City Council Meeting
<u>9:00 A.M., SEPTEMBER 14, 2004</u>	<u>9:00A.M., AUGUST 17,2004</u>
<u>ORDER OF BUSINESS</u>	<u>ORDER OF BUSINESS</u>
-- Call to Order -- Invocation -- Pledge of Allegiance -- Approve the minutes of the previous meeting	-- Call to Order -- Invocation Pledge of Allegiance Approve the minutes of the previous meeting
AWARDS AND PROCLAMATIONS	AWARDS AND PRESENTATIONS
PUBLIC AGENDA	PUBLIC AGENDA
CONSENT AGENDA	UNFINISHED BUSINESS
PLANNING AGENDA	NEW BUSINESS
AIRPORT AGENDA	CITY COUNCIL AGENDA
HOUSING AGENDA	CONSENT AGENDA
CITY COUNCIL AGENDA	PLANNING AGENDA
UNFINISHED BUSINESS	AIRPORT AGENDA
NEW BUSINESS	HOUSING AGENDA

The Council has the authority to change the order of business at regular City Council meetings.

- | | |
|-----------------------|---|
| Council Member Fearey | Council Member Fearey asked if the audience had been polled and inquired about the rationale for making this easier for the public. Stated that the majority of the public is usually here for the unfinished and new business Items and that this change would make it harder for them to judge when they should be here to hear their Items being presented. Stated that she does not understand the rationale behind this. |
| Gary Rebenstorf | Director of Law explained that the Consent, Planning and Housing Items usually are taken care of very quickly and there is not a lot of discussion involved with these Items and that the public would not have to be sitting in the audience for a long period of time to get to the unfinished and new business agenda. |
| Council Member Gray | Council Member Gray stated that he is open to giving this a try but that there are always a lot of people present for the unfinished and new business agenda and to inconvenience them to save some time for a few who attend the meetings for the planning and consent agenda, thinks it would be counter-productive. Stated that he does not know what initiated this or where the rationale came from. |
| Mayor Mayans | Mayor Mayans stated that he feels a trial period of 30 days would not do any harm and that maybe it would improve the smoothness of the meetings. |
| Council Member Lambke | Council Member Lambke stated that he would like to have an explanation of where this idea came from and who initiated it. |

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 366

- George Kolb City Manager stated that this is a proposal that was put forward by him and that normally other communities put the consent agenda first because there is no discussion involved. Stated that new business is usually something that requires a lot of discussion and debate and felt that getting the routine business out of the way would give the Council Members more time for input and discussion. Stated that this was just a suggestion.
- Council Member Martz Council Member Martz asked if it has been a procedure that the Council allows anyone from the audience to pull a consent Item off of the agenda and if not, he would suggest that this be taken out of the ordinance. Stated that he has no problem with trying this for 30 days.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Motion--
--carried Mayans moved to approve the changes for 30 days and strike the wording from the ordinance that Council Member Martz pointed out and place the ordinance on first reading. Motion carried 7 to 0.

TASTE & ODOR

TASTE & ODOR IMPROVEMENTS AGREEMENT, PART 2.

- David Warren Director of Water and Sewer reviewed the Item.
- Agenda Report No. 04-0839
- Taste and odor events in the water have increased in quantity and intensity over the last decade. Staff believes these events are due to two separate, but interconnected causes, the primary cause being water from Cheney Reservoir.
- Problems with taste and odor in water from Cheney Reservoir are not new. The causes and treatment options are challenging and complex. Certain types of microscopic plants (algae) in the reservoir can generate organic compounds that create taste and odor in water. This can give water an earthy, musty, or fishy odor.
- In November 2003, City Council approved the initiation of a design/build project to implement ozone as a treatment technology for taste and odor control. Requests for Proposals were sent and the team of Utility Contractors/Earth Tech was selected to provide services on February 2004.
- Staff has been working with Utility Contractors and Earth Tech to refine the project and develop the initial 30 percent design document. By developing the initial 30 percent design, an accurate cost estimate can be made for the final design. The final design will consist of an ozone generation system located adjacent to the Cheney Reservoir pump station. Ozone will be generated on site using liquid oxygen and will be injected into the water in a 1,340-foot long, 72-inch diameter ozone contactor.
- The guaranteed maximum price for the project has been established at \$7,577,700 including \$175,000 paid under Part 1 of the Agreement for the 30 percent design, and contingencies amounting to \$250,000. Taste & Odor Control (CIP W-909) has a budget of \$10.75 million in 2004. The project will be funded from future revenue bonds and/or Water Utility cash reserves.

- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Motion--
--carried Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

CITY COUNCIL AGENDA

BOARD APPTS.

BOARD APPOINTMENTS.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 367

Schlapp recommended that the following people be reappointed to the DAB II Advisory Board: Daryl Crotts, Sarah Devries, Ray Frederick, Larry Frutiger, Tim Goodpasture, Matt Hesse, Joe Johnson, David Mollhagen, Phil Ryan and Marty Weeks.

Gray recommended that Mary Cockburn be appointed to DAB IV Advisory Board.

Motion--carried

Mayans moved that the appointments be made. Motion carried 7 to 0.

CONSENT AGENDA

Gary Rebenstorf

Director of Law requested that Item 18 be pulled.

Motion--
--carried

Mayan moved that the Consent Agenda be approved as presented except for Item 18. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 9, 2004.

Bids were opened August 13, 2004, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

2004 Sanitary Sewer Rehabilitation, Phase E - north of 31st Street South, between Broadway and 143rd Street East, 468-83851/620414/664534) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III)

Insituform Technologies USA - \$224,350.30

Water distribution system to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (448-89817/735207/470877) Does not affect existing traffic. (District V)

Wilks Underground - \$30,659.00

Victoria from Marie, north to 44th Street South; Marie from the east line of Lot 3, Block B, east to Greenwood; 44th Street South from the west line of Lot 1, Block D, east to Hydraulic; Greenwood from 45th Street South, north to 44th Street South to serve Hidden Glen Addition - north of 47th Street South, west of Hydraulic. (472-83625/765883/490994) Does not affect existing traffic. (District III)

Kansas Paving Company - \$196,979.10

Motion--
--carried

Mayans moved that the contract(s) 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/MAINTENANCE DIVISION: Traffic Signal Lamps.

H & H Industries, Inc.* - \$29,900.00 (Group 1/total net bid)
*2% net 10 billing terms discount

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: Well Chemical Rehabilitation Equus Beds.

Layne Western Company - \$26,500.00 (Group 1/total net bid)

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Lower Roller Assembly,

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 368

U.S. Filter Memcor Part #2651D-5 for Sewage Treatment Plant #2 84” Internalift Screw Pumps.

U.S. Filter Memcor* - \$11,112.00 (Two @\$5,556.00 each)

*Purchasing Ordinance No. 35-856 Section 2.(b) – Sole Source of Supply

Motion--
--carried

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

LICENSES

APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS/SERVICES:

Renewal Adult Entertainment

Valerie Washington	Xcitement Video 3909 West Pawnee
Valerie Washington	Xcitement Video 220 East 21st Street

Motion--
--carried

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

CMB

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2004</u>	<u>(Consumption on Premises)</u>
Heather L. Soria	Cholita’s Mexican Restaurant*	8997 West Central

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

Motion--
--carried

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

PRELIMINARY EST.

PRELIMINARY ESTIMATES:

- a) Lateral 5, Main 26, War Industries Sewer to serve Regency Park Addition - south of 29th Street North, west of Greenwich. (468-83099/744069/480757) Does not affect existing traffic. (District II) - \$40,000
- b) Water distribution system to serve Regency Park Addition - south of 29th Street North, west of Greenwich. (448-89847/735206/470876) Does not affect existing traffic. (District II) - \$37,000
- c) Water distribution system to serve Brentwood South Second Addition - north of Pawnee, east of Webb (448-89947/735193/470863). Does not affect existing traffic. (District II) - \$34,000
- d) Storm Water Drain #214 to serve Avalon Park Addition - north of 37th Street North, east of Tyler. (468-83694/751372/485263) Does not affect existing traffic. (District V) - \$238,000

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 369

e) Lake Ridge from the south line of Lot 1, Block 4 to the north line of Lot 18, Block 3; Lake Ridge Court from the west line of Lake Ridge to and including the cul-de-sac; Havenhurst from the east line of Lake Ridge to the north line of Lot 12, Block 2; Sidewalk installed along the east line of Lake Ridge and the south line of Havenhurst to serve Avalon Park Addition - north of 37th Street North, east of Tyler. (472-83836/765886/490997) Does not affect existing traffic. (District V) - \$308,600

f) Fawn Grove from the west line of Lot 29, Block 2 to the west line of Greenwich Road; Leeanne Circle from the north line of Fawn Grove to and including the cul-de-sac to serve Fawn Grove at Sunset Lakes Addition - south of Turnpike, west of Greenwich. (472-83980/765873/490984) Does not affect existing traffic. (District II) - \$426,000

g) (Amended) – cost of Lateral 37 Cowskin Interceptor Sewer to serve Highland Springs Third Addition – south of Central, west of 135th Street West. (468-83634/744045/480-733) (District V) – Total estimated cost - \$106,328

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

HIDDEN GLEN ADD. PAVE STREETS IN HIDDEN GLEN ADDITION, WEST OF HYDRAULIC, SOUTH OF 44TH STREET SOUTH. (DISTRICT III)

Agenda Report No. 04-0840

On February 10, 2004, the City Council approved a Petition to pave streets in Hidden Glen Addition. An attempt to award a contract within the budget set by the petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located west of Hydraulic, south of 44th Street South.

The existing Petition totals \$211,000. The new Petition totals \$228,000. 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 the majority of the property in the improvement district.

Motion--
--carried Mayans moved that the Petition be approved and the amending Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-415

A Resolution amending Resolution No. 04-059 pertaining to improve Victoria from Marie, north to 44th Street South, on Marie from the east line of Lot 3, Block B, east to Greenwood, on 4th Street South, from the west line of Lot 1, Block D, east to Hydraulic, on Greenwood from 45th Street South, north to 44th Street South (west of Hydraulic, south of 44th Street South) 472-83625 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, Lambke, Martz, Schlapp, Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 370

STREET CLOSURE **CONSIDERATION OF STREET CLOSURES/USES.**

Agenda Report No. 04-0841

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

1) **National Conference for Community and Justice “Walk As One” Walkathon**

- Wichita Street – from Waterman to Lewis.

Police security is arranged to remove blockades as necessary to allow emergency vehicle access during entire designated time period

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion--

Mayans moved that the request, subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets, be approved. Motion carried 7 to 0.

--carried

BIOSOLIDS **BIOSOLIDS AGREEMENTS WITH THE CITY OF KINGMAN.**

Agenda Report No. 04-0842

The City of Kingman contacted Wichita sewage treatment staff in April 2004 expressing an interest in contracting the land application portion of their biosolids processing program. Kingman recently started a new wastewater treatment facility, and due to limitations posed by land and equipment availability, they are experiencing difficulties with land application. Wichita is currently contracting services for processing of biosolids in other municipalities and has the capacity to further expand this operation. Kingman was informed of this by a local engineering firm and contacted sewage treatment staff.

Staff contacted regulatory officials with the State of Kansas. State officials granted approval to accept the material and incorporate it into the land application process. Staff has confirmed that the material meets all applicable standards established by State and Federal Governments. Costs associated with the project are negligible, as Sewage Treatment is currently operating a biosolids, handling program in which 45,000 tons of solids are land-applied annually. The proposed addition will amount to less than a one percent increase in total annual volume.

The City of Kingman will deliver approximately 60 to 120 tons of material per year to Sewage Treatment Plant 2. Revenue generated will amount to \$1350-\$2700 per year at the rate of \$22.50 per ton.

Motion--

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

--carried

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 371

CONDEMNATIONS REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 04-0843

On August 2, 2004 the Board of Code Standards (BCSA) held a hearing on the following three (3) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Improvement notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

<u>Property Address</u>	<u>Council District</u>
a. 2311 North Piatt	I
b. 2626 North Madison	I
c. 309 East Lincoln	I

These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Motion--

Mayans moved that the Resolutions placing these matters on the Agenda for a Hearing before the Governing Body on October 12, 2004, at 9:30 a.m., or as soon thereafter be adopted. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-416

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 19, Block 2, Wilber's Addition to Wichita, Sedgwick County, Kansas known as 2311 North Piatt may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-417

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: Lot 6, Block 4, Ridgecrest, an Addition to Wichita, Sedgwick County, Kansas known as 2626 North Madison may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-418

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as: the east 40 feet of Lots 1 and 3, on Lawrence Avenue, Lincoln Park Addition to Wichita, Sedgwick County, Kansas known as 309 East Lincoln may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 372

(Item 18)

TEMPORARY NOTES GENERAL OBLIGATION TEMPORARY NOTES.

Gary Rebenstorf

Director of Law reviewed the Item.

Agenda Report No. 04-0844

The City finances capital projects in a variety of ways – one of those is cash or pay-as-you-go – to maintain a constant property tax levy. To utilize the pay-as-you-go method of financing, the City must first issue temporary notes and then retire those notes with cash.

The City will issue and purchase a note for Series 212 in the amount of \$12,285,000. The proceeds of the Series 212 Temporary Notes will be used to provide interim financing for various City-at-large projects.

The Series 212 Temporary Notes will mature September 16, 2004, and will be retired using cash from the Debt Service Fund.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved to find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Note Ordinance on the date of their introduction; that the Note Resolution and Ordinance be adopted and the publication thereof be authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-421

A Resolution authorizing and providing for the issuance of General Obligation Improvement Temporary Notes, Series 212, of the City of Wichita, Kansas, in the total principal amount of \$12,285,000, for the purpose of providing the necessary funds for the interim financing of costs in connection with certain capital improvements in the City; prescribing the terms and details of the notes; providing for the payment of the principal of and the interest on the notes; and making certain other covenants and agreements with respect thereto presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCE NO.46- 240

An Ordinance authorizing and providing for the issuance of General Obligation Improvement Temporary Notes, Series 212, of the City of Wichita, Kansas, in the total principal amount of \$12,285,000 for the purpose of providing the necessary funds for the interim financing of costs in connection with certain capital improvements in the City; providing for the payment of the principal of and the interest on the notes; and making certain other covenants and agreements with respect thereto. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Lambke, Gray, Martz, Schlapp, Mayans.

WESLEY RETIRMNT CONVEYANCE OF PORTION OF LAND, WESLEY RETIREMENT COMMUNITIES, INC. (DISTRICT II)

Agenda Report 04-0845

On March 16, 1999, the City Council approved the issuance of Health Care Facilities Refunding and Improvement Revenue Bonds, Series I, 1999, in the amount of \$18,720,000 to finance facilities for Wesley Retirement Communities, Inc. The bond was used for the purpose of refunding the Series III - A & B 1994 Bonds and to finance additional improvements at the Larksfield Place campus located at 7373 East 29th Street North. On July 26, 2004, the City of Wichita received notice from Wesley Retirement Communities, Inc. of its intention to exercise its option to purchase certain portions of the Facilities.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 373

Pursuant to the terms of Article XV of the Lease, Wesley Retirement Communities has notified the City of its intent to exercise its options to purchase an unimproved portion of land, which constitutes a portion of the Facility, and to make a technical correction with respect to the legal description of the Facility.

There is no financial impact to the City resulting from the requested change.

Motion--

Mayans moved that the Resolution authorizing execution of the Special Warranty Deed, and execution and delivery of a Partial Release of Indenture and a Partial Release and Amendment of Lease for the purpose of releasing the Unimproved Land from the Lease, and effecting a technical correction of the legal description of the Facility be adopted and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-422

A Resolution of the City of Wichita, Kansas, authorizing the City to convey title to a certain portion of unimproved land; authorizing execution of a Special Warranty Deed; authorizing a partial release and amendment of Lease to effect the release of said portion of unimproved land and to provide for use of the proceeds of the sale of said unimproved land; and authorizing the execution of all such other documents necessary to convey title to said unimproved land to Wesley Retirement Communities, Inc., presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

BILLBOARD SIGN

OFF-SITE BILLBOARD SIGN MORATORIUM EXTENSION REQUEST.

Agenda Report No. 04-0846

On May 4, 2004, the City Council passed a six-month Off-Site Billboard Moratorium to allow time to conduct a study of billboard sign regulations, to obtain public comment on current or proposed billboard sign regulations, and to develop and adopt any appropriate Sign or Zoning Code amendments relating to off-site billboard signs. However, the City Council also set an initial four-month target for completion of the above, with an option to extend an additional two months, if necessary.

Since adoption of the Moratorium on May 4, the following actions have been completed:

- A City Council Workshop was conducted on May 25th
- Follow-up meetings with City Council members were conducted in late May through mid-June
- Moratorium issues were presented to DABs in June and July for citizen input (originally, attempts were made to present to all DABs in June, but this was not possible due to scheduling conflicts)
- A follow-up Council Workshop was conducted on June 22nd
- Follow-up meetings with City Council members were conducted in late June through mid-July
- Several drafts of Sign Code amendments have been prepared by staff based on input received from City Council members and DABs
- Staff has initiated meetings with representatives of the off-site sign industry to inform them of the proposed changes and to obtain their comment
- A Planning Commission hearing on proposed Sign Code amendments will be scheduled for either August 19th or September 9th, depending on input received in meetings with the sign industry and the Council's action regarding this requested Moratorium extension.

If the requested time extension is granted, it is anticipated that final amendments will be ready for Council consideration by late September or early October (within about 30 days of the original target completion deadline). However, due to the Labor Day holiday and only three scheduled "regular" City Council meetings in September and October, it may be necessary to extend the Moratorium until the latter part of October or very early November.

There is no financial impact to the City. However, several off-site billboard signs were in the process of permit application review when the April 20, 2004 Council action was taken. Several sign companies

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 374

indicate they already had significant investment in these proposed billboards.

The approved Moratorium, adopted on May 4, 2004, allows six months for completion of tasks outlined in the Moratorium. The City Council has the authority under its police powers to establish a reasonable moratorium and to extend the time of the moratorium.

Motion--
--carried

Mayans moved that the Off-Site Billboard Moratorium target completion deadline from September 4, 2004, until November 4, 2004, be extended. Motion carried 7 to 0.

2004 GRANT

2004 BULLETPROOF VEST PARTNERSHIP GRANT.

Agenda Report No. 04-0847

The Department of Justice has awarded the City of Wichita \$3,698.05 under the 2004 Bulletproof Vest Partnership (BVP) grant. The BVP provides funds for law enforcement agencies to purchase bulletproof vests, in an effort to reduce injury and death to law enforcement officers.

NIJ-approved vests purchased by the Police Department from January 1, 2003 through December 31, 2003 were included in the grant application. The grant pays up to 50% of each applicant's total vest costs. For 2004, jurisdictions with populations over 100,000 received 10% of requested funds; jurisdictions under 100,000 received 50%. This is the third year the City has been awarded these grant funds. The funding will be used to purchase additional vests and/or safety equipment for police officers.

The City of Wichita has been awarded \$3,698.05 for the total cost of bulletproof vests included in the application. There are no financial considerations.

Motion--
--carried

Mayans moved that the receipt of funds from the 2004 Bulletproof Vest Partnership grant be approved. Motion carried 7 to 0.

FLINT HILLS LAKE

FEASIBILITY STUDY RESOLUTION FOR THE FLINT HILLS LAKE PROJECT.

RESOLUTION OF THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS PROPOSED FLINT HILLS LAKE PROJECT

WHEREAS, The City of Wichita is a strong supporter of community and economic development efforts, and promoting tourism for our community and the south central Kansas region; and,

WHEREAS, there is a continuing need to identify water resources, as well as a strong demand for outdoor recreational opportunities in south central Kansas; and,

WHEREAS, water resources, tourism, outdoor recreation, and economic development can be interrelated; and,

WHEREAS, the Flint Hills Lake Project is proposed to be located along Grouse and Silver Creeks in Cowley County; and,

WHEREAS, the development of the proposed Flint Hills Lake Project could provide water for many communities in our area, increase regional tourism and recreational opportunities, give retirees an alternative to leaving the state, help with regional economic development efforts, and assist in the efforts to retain and recruit quality individuals and employers in south central Kansas; and,

WHEREAS, the Flint Hills Lake Project was identified as a top regional priority for the south central Kansas region as part of the state's 2003 Prosperity Summit; and,

WHEREAS, a feasibility study of the Flint Hills Lake Project has been unanimously endorsed by the

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 375

Wichita Chamber of Commerce, the Wichita Convention and Visitors Bureau, the Regional Economic Area Partnership, the Sedgwick County Commission, and the Lower Arkansas Basin Advisory Committee to the Kansas Water Office.

NOW, THEREFORE BE IT RESOLVED, that the City of Wichita, does hereby support a feasibility study for the Flint Hills Lake Project, in an effort to continue to support regional economic development and tourism in South Central Kansas.

Proclaimed this 17day of August 2004.

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

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ AUGUST 10, 2004)

a) Industrial Revenue Bonds - BeautyFirst Project. (District II)

ORDINANCE NO.46-238

An Ordinance of the City of Wichita, Kansas, authorizing the issuance of Taxable Industrial Revenue Bonds, Series IV-A, 2004 (Beautyfirst, Inc. Project) in the aggregate principal amount of not to exceed \$2,350,000 and its Subordinated Taxable Industrial Revenue Bonds, Series IV-B, 2004 (Beautyfirst, Inc. Project) in the aggregate principal amount of \$650,000 for the purpose of providing funds to purchase, acquire, construct and equip a corporate office and warehouse distribution facility; prescribing the form and authorizing execution of a trust indenture by and between the City and Sunflower Bank, N.A., as Trustee with respect to the bonds; prescribing the form and authorizing the execution of a lease by and between the City and River Sharpe Properties, LLC; approving the form of a sublease between River Sharpe Properties, LLC, and Beautyfirst, Inc.; approving the form of a guaranty agreement and an individual guaranty agreement; authorizing the execution of a bond purchase agreement by and among the City, River Sharpe Properties, LLC, and Sunflower Bank, N.A., as purchaser of the Series IV-A, 2004 Bonds and the execution of a bond purchase agreement by and between the City and River Sharpe Properties, LLC, as purchaser of the Series IV-B, 2004 Bonds, 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, Lambke, Martz, Schlapp, Mayans.

b) Sidewalk repair assessments.

ORDINANCE NO.46-239

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas, 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, Lambke, Martz, Schlapp, Mayans.

PLANNING AGENDA

Motion--carried Mayor Mayans moved that the Planning Agenda be approved as presented. Motion carried 7 to 0.

VAC2003-20

VAC2003-20-REQUEST TO VACATE PORTION OF A PLATTED SETBACK, GENERALLY LOCATED NORTH OF KELLOGG BETWEEN HOOVER STREET AND RIDGE ROAD. (DISTRICT V)

Agenda Report No. 04-0848

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 376

The applicant proposes to vacate the south 65-feet of platted 100-foot setback, that runs parallel to the north property line of Lots 2, 3, & 4 as recorded on the Dugan Center 2nd Addition. The vacation of a portion of the setback would allow further development of the site. The Dugan Center 2nd Addition was recorded with the Register of Deeds July 14, 1993.

This site is subject to the Dugan Center CUP; CUP DP-151. The applicant had applied for an amendment to the CUP (CUP2003-24 DP-151), which was approved by the MAPC's May 22, 2003 meeting. One of the requests of the amendment was a reduction of the 100-foot setback to 35-feet. Because the 100-foot setback shown on CUP DP-151 was also platted on the Dugan Center 2nd Addition both an amendment to the CUP and a vacation of the platted setback is required. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--
--carried

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

VAC2003-51

VAC2003-51-REQUEST TO VACATE A PORTION OF EASEMENT AND A PORTION OF A RESERVE'S USES LOCATED EAST OF WEBB ROAD, NORTH OF MOUNT VERNON STREET AND SOUTHEAST OF THE STONEYBROOKE-GOEBEL STREETS INTERSECTION. (DISTRICT II)

Agenda Report No. 04-0849

MAPC Recommendation: Approve. (unanimously)

The applicant is requesting consideration for the vacation of a portion of the uses of platted Reserve F, which runs parallel to the south side of Lot 24 Block 4, Brentwood Village Addition. The applicant is also requesting consideration for the vacation of less than 10-foot of the northern portion of the platted 20-foot utility easement on Lot 24 Block 4, Brentwood Village Addition. The Brentwood Village Addition was recorded with the Register of Deeds May 2, 1997.

The irregular shape of the lot presents a hardship in building a single-family residence on it. The uses that Reserve F has been set aside for include open space, landscaping, and recreational purposes. There is a 50-foot pipeline easement within the 77.98-foot wide reserve. The Reserve is owned and maintained by the Home Owners Association, to which the lot belongs. There are no sewer, water or franchised utilities in the platted easement. The applicant has provided a letter from the President of the Home Owners Association supporting the vacation request. The applicant has recorded an easement dedicated by separate instrument with the Register of Deeds that replaces the vacated portion of the platted easement, per a condition of the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--
--carried

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

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 377

VAC2004-09

VAC2004-09-REQUEST TO VACATE A UTILITY EASEMENT DEDICATED BY SEPARATE INSTRUMENT AND A PLATTED DRAINAGE AND UTILITY EASEMENT, GENERALLY LOCATED NORTH OF DOUGLAS, MIDWAY BETWEEN MERIDIAN AVENUE AND WEST STREET, ON THE NORTHEAST CORNER OF MT. CARMEL AND SHERIDAN. (DISTRICT VI)

MAPC Recommendation: Approve (unanimously)

The applicant is requesting consideration to vacate a portion of a 10-foot utility easement dedicated by separate instrument (Film 2087, Page 1526) and a portion of a platted 20-foot drainage and utility easement, all on Lot 8, Block 4, Woodlake, 2nd Addition. The Woodlake 2nd Addition was recorded with the Register of Deeds May 19, 2000.

The single-family residence located on the site encroaches approximately 4.6-feet into the 10-foot utility easement dedicated by separate instrument along the eastern portion of the property. The easement is the eastern half of a 20-foot utility easement dedicated by separate instrument that straddles Lots 7 & 8 (the site), Block 4, all in the Woodlake 2nd Addition. A condition of the vacation request required the applicant to relocate the sewer line. The relocated line should ensure that the City's liability to the site's single-family residence is minimal if any at all, in case of maintenance, repair, or removal of the sewer line. The relocated line also ensures the structural integrity of the single-family residence in case of maintenance, repair, or removal of the sewer line. Additional easement to accommodate the relocation of the sewer line was dedicated on Lot 7, Block 4, Woodlake 2nd Addition; the property abutting the site's east side. The easement (Film 2857, Page 5001) was recorded with the Register of Deeds June 1, 2004. The relocated sewer line was accepted (Project #1440 PPS) by the City, July 27, 2004. An Administrative Adjustment was also required and granted to reduce the encroachment into the site's east interior side yard setback. The applicant proposes to build a detached garage that required the vacation of the south 10 feet of a platted 20-foot drainage and utility easement that runs parallel to the site's north property line. One person spoke in opposition to this request at the MAPC's advertised public hearing. One written protest was filed. The protest was resolved.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--
--carried

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

VAC2004-00020

VAC2004-00020-REQUEST TO VACATE PLATTED ACCESS CONTROL AND A PORTION OF A PLATTED SETBACK, GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE 37TH STREET NORTH-RIDGE ROAD INTERSECTION. (DISTRICT V)

Agenda Report No. 04-0851

MAPC Recommendation: Approve (unanimously)

The applicant proposes vacation of the current joint access control between Lots 2 & 4, Ridge Port North Addition onto Ridge Road and the current joint access between Lots 2 & 3, Ridge Port North Addition, onto 37th Street North. The applicant is also proposing the vacation of a portion of the 100-foot setback along Lots 2's, Ridge Port North Addition north property line. The subject site is part of CUP DP 237. The Ridge Port North Addition was recorded June 9, 1999.

There is a proposed Lot Split associated with this request, which will break Lot 2 into four parcels and reconfigure Lot 4. The applicant has proposed new joint access to replace the existing access. The proposed joint access will serve the newly reconfigured Lots 2 & 4. The Traffic Engineer has approved the proposed access. The applicant has proposed a 35-foot setback to replace the 100-foot setback along Lot 2's north side. The proposed 35-foot setback is aligned with the existing 35-foot setback on the smaller Lots 3 & 4, Ridge Port North Addition. The proposed reconfiguration of Lot 2 by the Lot Split means the four new parcels will be similar in size to Lots 3 & 4, Ridge Port North Addition, which, have the 35-foot setback. The subject site is part of CUP DP 237. An Adjustment or Amendment to CUP DP 237 is required, which will reflect the reconfiguration of Lots 2 & 4, the

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 378

approved joint access, new access control and the proposed 35-foot setback. . No one spoke in opposition to this request at the MAPC's advertised public hearing. No written protests have been filed.

A certified copy of the Vacation Order and dedication by separate instruments for Abutter's Access Rights will be recorded with the Register of Deeds

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

VAC2004-00021

VAC2004-00021-REQUEST TO VACATE A PORTION OF A PLATTED SETBACK, GENERALLY LOCATED NORTHEAST OF THE 53RD STREET NORTH-MERIDIAN AVENUE INTERSECTION. (DISTRICT VI)

Agenda Report No. 04-0852

MAPC Recommendation: Approve (unanimously).

The applicant proposes to vacate a portion of a platted 40-foot setback, as platted on Lot 2, Block 1, Leewood Heights 3rd Addition. The Leewood Heights 3rd Addition was recorded with the Register of Deeds on August 14, 1979.

A Conditional Use, CON2003-00046, for a car wash on the site was approved by the MAPC at their January 22, 2004, meeting. The applicant's site plan for CON2003-00046 proposed to place three vacuum - trash islands within the platted 40-foot setback, which runs parallel to Meridian Avenue. Section III-E.2.e. of the Unified Zoning Code does not permit vacuum - trash receptacles to be located within the required setback because vacuum - trash islands are considered structures. The applicant was instructed to apply for a vacation to reduce the platted setback where the vacuum - trash islands encroached into it. The subject property's platted 40-foot setback is 20 feet greater than what the UZC requires for the "LC" zoning district, which is what the site is zoned. No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

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

SUB2004-33

SUB2004-33-PLAT OF HAWTHORNE THIRD ADDITION, LOCATED ON THE NORTH SIDE OF 21ST STREET NORTH AND EAST OF 127TH STREET WEST. (DISTRICT II)

Agenda Report No. 04-0853

MAPC Recommendation: Approve the plat. (13-0)

This site, consisting of 144 lots on 81.3 acres, is a replat of a portion of Hawthorne and Hawthorne Second Additions and the unplatted land to the east. This site is located within Wichita's city limits and is zoned SF-5, Single-Family Residential District.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for water, paving and sanitary sewer improvements. A Restrictive Covenant was submitted to: 1) provide for the continued sharing in the ownership and maintenance responsibilities of the previously platted reserves in Hawthorne and Hawthorne Second Additions that are not included in this site; 2) provide four off-street parking spaces per dwelling unit on each lot that abuts a 32 and 58-foot street; and 3) allow for the creation of a lot owner's association to provide for the ownership and maintenance of the proposed reserves. Since the applicant proposes to plat narrow street right-of-way with adjacent 15-foot street drainage and utility easements, the Restrictive Covenant outlines restrictions for lot-owner use of these easements.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 379

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--
--carried

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

RESOLUTION NO. 04-423

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89862 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-424

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89992 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-425

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89993 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-426

Resolution of findings of advisability and Resolution authorizing construction of Main 13, Four Mile Creek Sewer, 468-83506 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-427

Resolution of findings of advisability and Resolution authorizing construction of Lateral 3, Main 13, Four Mile Creek Sewer, 468-83509 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-428

Resolution of findings of advisability and Resolution authorizing improving of Storm Water Sewer No. 575, 468-83518 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 380

RESOLUTION NO. 04-429

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 191, Part 2, 468-83868 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-430

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 190, Part 2, 468-83869 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-431

Resolution of findings of advisability and Resolution authorizing construction of Lateral 5, Main 13, Four Mile Creek Sewer, 468-83870, (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-432

Resolution of findings of advisability and Resolution authorizing construction of Lateral 6, Main 13, Four Mile Creek Sewer, 468-83871 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-433

Resolution of findings of advisability and Resolution authorizing improving Williamsgate/Camden Chase from the east line of Peckham to the north line of 21st street, 472-83644 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-434

Resolution of findings of advisability and Resolution authorizing improving Camden Chase from the east line of 127th Street East to the east line of Peckham; sidewalk on both sides of Camden Chase, from the east line of 127th Street East to the east line of Peckham, 472-83647 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 381

RESOLUTION NO. 04-435

Resolution of findings of advisability and Resolution authorizing improving Rosemont from the north line of Camden chase to the north line of Mainsgate circle; Rosemont Courts serving Lots 1 to 16, Block 1, Hawthorne 2nd Addition; from the west line of Rosemont to and including the cul-de-sac; Mainsgate Circle serving Lots 17 to 28, Block 1, Hawthorne 2nd Addition; from the west line of Rosemont to and including the cul-de-sac. Sidewalk on one side of Rosemont from Camden Chase to the north line of Mainsgate Circle, 472-83828 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-436

Resolution of findings of advisability and Resolution authorizing improving Camden Chase from the east line of Loch Lomond to the east line of Lot 14, Block 5; Rosemont Court serving Lots 7 through 17, Block 4, from the east line of Rosemont to and including the cul-de-sac; Loch Lomond Court serving Lots 30 through 42, Block 4, from the west line of Loch Lomond to and including the cul-de-sac; and Camden Chase/Loch Lomond from the east line of Williamsgate to the north line of Lot 42, Block 4, 472-84081 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

SUB2004-76

SUB2004-76-PLAT OF HAWTHORNE FOURTH ADDITION, LOCATED ON THE NORTH SIDE OF 21ST STREET NORTH AND EAST OF 127TH STREET WEST. (DISTRICT II)

Agenda Report No. 04-0854

Staff Recommendation: Approve the plat.
MAPC Recommendation: Approve the plat. (13-0)

This site, consisting of 9 lots on 11.1 acres, is a replat of a portion of Hawthorne Addition. This site is located within Wichita's city limits and is zoned SF-5, Single-Family Residential District and GO, General Office District.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for drainage, sewer and water improvements. A Restrictive Covenant was submitted to: 1) provide for the continued sharing in the ownership and maintenance responsibilities of the previously platted reserves in Hawthorne and Hawthorne Second Additions that are not included in this site; 2) provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street; and 3) allow for the creation of a lot owner's association to provide for the ownership and maintenance of the proposed reserves. Since the applicant proposes to plat narrow street right-of-way with adjacent 15-foot street drainage and utility easements, the Restrictive Covenant outlines restrictions for lot-owner use of these easements. Lot nine is bi-zoned with the easterly portion that is zoned GO, General Office District; therefore, a Restrictive Covenant was submitted limiting the uses on the western portion of the lots to those permitted in the SF-5, Single-Family Residential zoning district.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--
--carried

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

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 382

RESOLUTION NO. 04-437

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-8973, (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-438

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89737 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-439

Resolution of findings of advisability and Resolution authorizing construction of Lateral 2, Main 12, Four Mile Creek Sewer, 468-83511 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-440

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 190, Part 1, 468-83516 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-441

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 191, Part 1, 468-83517 (north of 21st Street, 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, Lambke, Martz, Schlapp, Mayans.

A04-20

A04-20-REQUEST BY MR. WAYNE J. LINNEBUR TO ANNEX LAND GENERALLY LOCATED NORTH OF 13TH STREET BETWEEN 135TH AND 151ST STREET WEST. (DISTRICT V)

Agenda Report No. 04-0855

The City has received a request to annex 78.95 acres of land generally located north of 13th Street North between 135th and 151st Street West. The proposed annexation area abuts the City of Wichita to the southeast of the property. The owner plans to develop the proposed annexation area as a residential development with 239 single-family residential lots.

Land Use and Zoning: The proposed annexation consists of 78.95 acres of property zoned "SF-20" and in agricultural use. The properties directly to the north, east, west, and south of the proposed annexation area are in Sedgwick County, zoned "SF-20" Single Family, and are currently in agricultural use. The property to the southeast of the proposed annexation is in the City of Wichita, zoned "SF-5" Single Family and is being developed as single-family residential lots.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 383

Public Services: Water service is available to the east of the proposed annexation along 13th Street and will be extended as part of the platting requirements. The City Public Works Department is currently working on extending the sewer main from 21st Street along 135th Street to serve the proposed annexation and nearby properties.

Street System: The subject property fronts on South 13th Street North, currently a two lane unpaved county road. The Wichita-Sedgwick County Transportation Improvement Program 2004-2008 identifies improvements to 13th Street from 135th to 119th Street by both Sedgwick County and the City of Wichita. The County improvements in 2005 will involve sub-grade modification and bit surfacing. The City improvements in 2007 call for paving and widening of the roadway.

Public Safety: Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 16 located at 1632 N. Tyler Road. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 North Elder.

Parks: Swanson Park, a 93.22-acre nature park, is located 4 miles southeast of the proposed annexation site. A pathway is proposed along 135th Street to the east of the proposed annexation area in the 1996 Parks and Open Space Master Plan.

School District: The annexation property is part of the Unified School District 266 (Maize School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with current amendments to the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2010 Wichita Urban Service Area as shown in the Plan.

The current approximate appraised value of the proposed annexation, according to County records, is \$16,940 with a total assessed value of \$1,948. Using the current City levy (\$31.406/\$1000 x assessed valuation), this roughly yields \$61 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property, and the current mill levy. However, the property owner projects an overall appraised value of \$22,705,000 when development is completed, resulting in an assessed value of \$2,611,075. Assuming the current City levy remains about the same, this would roughly yield \$82,003 in City annual tax revenues.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--
--carried

Mayans moved that the annexation request be approved and the Ordinance placed on first reading
Motion carried 7 to 0.

ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, introduced and under the rules laid over. A-04-20

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 17, 2004

PAGE 384

RECESS

Mayans moved that the City Council recess into Executive Session at 10:30 a.m. to consider: Consultation with legal counsel on matters privileged in the Attorney-Client relationship relating to: pending litigation, legal advice and preliminary discussions relating to the acquisition of real property for public purposes and that the Council return from Executive Session no earlier than 11:00 a.m. and reconvene in the City Council Chambers. Motion carried 7 to 0.

Reconvene:

The Council reconvened in the City Council Chambers at 11:05 a.m. and Mayor Mayans announced that no action was taken.

Motion--carried

Mayans moved that the Executive Session be adjourned. Motion carried 7 to 0.

Motion--carried

Mayans moved that the Regular Meeting be adjourned. Motion carried 7 to 0.

Adjournment

The meeting adjourned at 11:06 a.m.

Karen Sublett
City Clerk