

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 29

## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, June 03, 2008  
Tuesday, 9:08 A.M.

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

Ed Flentje, Interim City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

The pledge of allegiance was participated in by the Council Members, Staff and guests.

Pastor Martin Hollar from Mt. Vernon UMC gave the invocation.

The Minutes of the regular meeting of May 20, 2008 and special meeting of May 22, 2008, were approved 7 to 0.

### AWARDS AND PROCLAMATIONS

--Proclamations

#### Proclamations:

Mayor Brewer read aloud the following Proclamations:

Family Medicine Week  
Institute of Real Estate Management (IREM)  
Homeownership Month

--Presentation

#### Student Ambassadors:

Mayor Brewer presented six students Honorary Student Ambassador Certificates to Orleans, France and each of them a check for \$500.00 to help out with their expenses.

### PUBLIC AGENDA

#### Eugene Anderson-United Builders and Contractors, Inc., An Association of African American Businesses.

(Council Member Fearey momentarily absent)

Eugene Anderson

Mr. Anderson stated he is with an Association of African American Business Owners whose primary purpose and goal is the growth and development of African American owned businesses. Stated he is requesting adoption of a purchasing policy that promises diversity. Stated such a policy will insure African American and other disadvantaged businesses maximum opportunity to participate in, compete for, and be utilized by the City of Wichita in its procurement of goods and services. Stated the City of Wichita's current Emerging and Disadvantaged Business Enterprise Program Policy's past two year record does not reflect compliance with the policy statement. Stated limited market place for African Americans is not a new problem. Stated they encourage the City Council to join other progressive cities in adopting, implementing, and enforcing fair share diversity purchasing policies with goals which can be measured.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 30

## UNFINISHED COUNCIL BUSINESS

**A08-07R**

**A08-07R REQUEST BY JOHN PHILBRICK, ON BEHALF OF THE CITY OF WICHITA, TO ANNEX LAND GENERALLY LOCATED NORTH OF 55TH STREET SOUTH, BETWEEN CLIFTON AVENUE AND SOUTHEAST BOULEVARD. (DISTRICT III) (DEFERRED MAY 13, 2008)**

John Schlegel

Planning Director reviewed the item.

(Longwell momentarily absent)

Agenda Item No. 2.

The Property Management Division, on behalf of the City of Wichita, is requesting to annex 5.37 acres of land generally located north of 55th Street South, between Clifton Avenue and Southeast Boulevard. The annexation area abuts the City of Wichita to the south and east. Its anticipated use is undetermined at this time.

**Land Use and Zoning:** The proposed annexation consists of approximately 5.37 acres of property currently zoned "IP-A" Industrial Park – Airport. Upon annexation, the zoning will remain the same. Property directly to the north is undeveloped and is zoned "LI" Limited Industrial. Property to the east and south is undeveloped and is zoned "IP-A" Industrial Park-Airport. Property to the west is developed with the Pinaire Mobile Home Park Addition and is zoned "SF-5" Single-Family Residential.

**Public Services:** The nearest water line is a 12" line located in Clifton, coming south from Oaklawn and ending adjacent to the west edge of the subject property. There is also another 12" water line located in Clifton, just south of the subject property, adjacent to the Meadowlake Beach Addition. There is also a 24" sewer main in Clifton that runs along the west edge of the subject property.

**Street System:** Clifton Avenue, a two-lane paved road, runs along the west edge of the subject property. The 2008 Transportation Improvement Program, the City of Wichita Capital Improvement Program (CIP) 2007-2016 and the Sedgwick County Capital Improvement Program 2008-2012 do not call for street improvements near the proposed annexation site.

**Public Safety:** Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita will provide fire protection from Fire Station No. 19, located at 4440 South Broadway with a seven (7) to eight (8) minute response time. Upon annexation, police protection will be provided to the area by the Patrol South Bureau, of the Wichita Police Department, headquartered at 211 E. Pawnee.

**Parks:** Emery Park, a 30-acre park, is located approximately 2 miles to the northwest of the proposed annexation site and contains two tennis courts, a BMX track, a concession stand, a basketball court, a children's play area, a restroom, a drinking fountain and a parking area. Chapin Park, a 190-acre park, is located approximately 2 1/2 miles to the northwest from the proposed annexation site and is currently open space that is used by the Radio Control Club for model airplane flying. Palisade Park, a 5-acre park, is located approximately 2 miles to the west of the subject property and is an open space neighborhood park. South Lakes Park, a 250-acre park, is approximately 2 1/2 miles to the west of the proposed site and contains 16 soccer fields, 8 softball diamonds, 1 football field, 3 concession stands, 4 fishing lakes and 2 parking areas. In addition, the South Arkansas River Greenway, a 158-acre park, is approximately 2 miles to the south of the subject property and is undeveloped parkland along the Arkansas River. In addition, land has been donated to the City just south of the subject property, of which could potentially be developed into a future park, although this is undetermined at this time. Alternatively, according to the 1996 Parks and Open Space Master Plan, a potential future park site has been proposed just west of the subject property.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 31

School District: The annexation property is part of the Unified School District 260 (Derby School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area, as shown in the Plan.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$19,330 with a total assessed value of \$2,319. Using the current City levy (\$31.979/\$1000 x assessed valuation), this roughly yields \$74 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. At this time, the anticipated use of the property is undetermined.

Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

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

Council Member Skelton Council Member Skelton stated it his intention and understanding that this was always going to be used for park land and it is the citizens understanding that it is going to be used for park land and the Park Board's. State he has talked to Janet Miller and asked to recognize her for some comments.

Janet Miller Ms. Miller stated she is the president of the Wichita Board of Park Commissioners and the Park Board voted last October to recommend that the City Council accept the 105 acres of land within 30 days subject to due diligence reviewed by city staff to include planning, public works, environmental services, and that any leases that the park department may enter into for farming be specifically earmarked for future park development. Stated their action was to recommend that it be set aside for park purposes and does not think anyone objected to that at the time.

Mayor Brewer Mayor Brewer inquired whether anyone from the audience wished to speak and no one appeared.

Motion-- Skelton moved that the annexation request be approved; the ordinance placed on first reading; the necessary signatures authorized; and dedicate the 105 acres that was donated by Jay Russell as park land and earmark any leases or other income derived from this property for the purposes of development of that park.

Council Member Gray Council Member Gray stated wants to make sure that the Council considers the fact that when any individual whether it be a private citizen or developer donates property to the City, we take into consideration what their will and intent was along with that donation. Stated that gift was made for a purpose and should be the reason why we utilize that property for the way it was intended when we do receive a gift.

--carried 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. Introduced and under the rules laid over. (A08-07)

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 32

## ARKANSAS RIVER ARKANSAS RIVER CORRIDOR ACCESS PLAN. (DISTRICTS I, III, IV, V, AND VI)

Doug Kupper

Director of Parks and Recreation reviewed the item.

Agenda Item No. 3.

On November 7, 2006 City Council approved the selection of Applied Ecological Services and Patti Banks Associates to provide design and planning services for the development of the Arkansas River Corridor Access Plan (ARCAP). The ARCAP project was a multi-jurisdictional plan that included project partners from a three county area. The partners in this plan include the Arkansas River Coalition, Reno County, Sedgwick County, Sumner County, Hutchinson, South Hutchinson, Wichita, Derby, Oxford, and the Kansas Department of Wildlife and Parks. Each partner provided financial contributions to this plan. The ARCAP steering committee included representatives from each partner listed above to guide and direct activities for the planning and design services.

The ARCAP project was developed to evaluate the possibility of creating recreational opportunities by utilizing existing **access** points and assess possible future access points. The river corridor extends from the Rice and Reno county line downstream to the city of Oxford, Kansas. The ARCAP included a series of six Public Input meetings at three locations. Meetings were held in South Hutchinson, Wichita, and Oxford, Kansas. The ARCAP also included a Technical Workshop Meeting at the Herman Hill Water Center working with local canoe and kayaking experts, which included the study of dam obstructions at the 21st St. and Lincoln St. dams for recreational transition. The final Master Plan report was recently presented to the ARCAP steering committee and was accepted on December 7, 2007. The plan was previously reviewed and accepted by the Wichita Park Board on November 19, 2007. On February 5, 2008, City Council directed staff to take the Plan out to the community through the District Advisory Boards (DABs). All six (6) DABs approved the Plan and recommended the City Council accept the recommended action.

The completion of this plan provides a general guideline and recommendations to the project partners for potential access point development. The information provides a blueprint for possible new recreational opportunities along the Arkansas River for the City of Wichita and surrounding communities. Within the City of Wichita the plan identifies three recreational transitions for watercraft at the 21st Street "tubes", the 21st Street dam and the Lincoln Street dam. Two additional potential access points are identified as well at Herman Hill Park and Sim Park.

Currently there are no Capital Improvement Program (CIP) funds identified to execute any portion of the plan. All future improvements will be funded either through the CIP if approved by City Council or by the Kansas Department of Wildlife and Park grants. This plan will be brought back to the City Council for future action in authorizing all or a portion of the plan to move forward with additional recreational opportunities as outlined in this report.

None at this time.

The approval of this plan will enable the city and surrounding communities to enhance and improve the Quality of Life by creating recreational opportunities. The completion of this plan also increases the probability of future state and federal grant funding for river recreation projects.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Janet Miller

Ms. Miller stated this plan is a vision for how Wichita, Sedgwick County, and surrounding communities can work towards accomplishing one of the mutually adopted Visioneering strategies which is to improve regional recreational use of the Arkansas River. Stated the ARCAP plan provides us with a guide to how we can highlight the Arkansas River as a regional attraction and establish it as a premiere recreational amenity for the state and the region; enhance and improve recreational opportunities along the river by developing future access points; provide economic benefits; and opportunities to our city and region by improving the quality of life, which can attract young professionals; foster and increase

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 33

awareness of our natural environment; improve educational opportunities related to wildlife and conservation; and improve public safety along the river.

Tom Neil Mr. Neil stated he represents the Arkansas River Coalition and supports the river enhancement and hopes to preserve the river and make it a real amenity to the City of Wichita and the region.

Matt Goolsby Mr. Goolsby resides at 355 North Rock Island, stated he represents District IV on the Park Board and is here today to show support of this plan. Stated we need to capitalize on the fact that we are a river city and encouraged the Council to support this today.

Kim Austin Ms. Austin stated she is a resident of rural Butler County and works in Wichita. Stated she is in support of the ARCAP and feels it is an important asset for attracting other young professionals and one of her tasks is to attract young professionals to the area. Stated one of the common questions she receives is what recreation opportunities does Wichita have to offer. Stated this would be a valuable asset for the City recreationally and economically.

Motion-- Fearey moved that the Arkansas River Corridor Access Plan (ARCAP) be approved as a guideline for future access point development within the City of Wichita. Motion carried 7 to 0.  
--carried

## **SMOKING ORD. AMEND CITY CODE CHAPTER 7.56, REGULATING SMOKING.**

Gary Rebenstorf Director of Law reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Item No. 4.

On May 6, 2008, City Council considered and discussed, on first reading, an Ordinance that would have regulated smoking in food service establishments and premises licensed to sell liquor or cereal malt beverages by the drink, generally adding both to the list of places where smoking would be prohibited. After comment from the public and from the bench, Council set the Ordinance over for second reading on June 3, 2008, with certain changes as directed from the bench.

The revised Ordinance incorporates changes in pursuance of the Council's direction of May 6, 2008. It substitutes a more general "place of business" concept for the food service establishments and licensed premises addressed by the original text. It also removes the references in existing Code Section 7.56.020(b) that generally exempted Century II and the Airport terminal in the past. It retains the restrictions relating to protection of persons under age 18, except where a business (e.g., housing provider) can show that it is prevented by applicable law from excluding persons under age 18. It slightly adjusts some of the fee provisions, and adds a definition of "charitable fundraising event," and enforcement provisions.

To help defray the cost of inspections provided for under the ordinance, each permit application that would necessitate inspections would require a non-refundable fee of \$250. This fee will probably not be enough to fully offset costs of regulation, but can be adjusted by amendment once the City has a few years of experience to establish total annual cost.

The Law Department has prepared the amendments to the ordinance, and approved it as to form.

The ordinance is designed to advance the goals of Safe & Secure Communities and Quality of Life by promoting the public health and helping to protect citizens from the adverse affects of involuntary exposure to environmental tobacco smoke.

Mayor Brewer Mayor Brewer inquired whether anyone wished to be heard.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 34

- Carolyn Gaughn Ms Guahn stated she is a member of Tobacco Free Coalition and this compromise is not what Tobacco Free Coalition hoped for and commented on the problems and issues she sees with adopting a non-comprehensive ordinance. She asked the Council if they are willing to compromise on health issues and if this is the most comprehensive ordinance they can pass.
- Roger Smith Mr. Smith resides at 132 South Edwards, stated he is the Vice-Chair of Tobacco Free Coalition. Stated if the Council is not going to consider a comprehensive ordinance, then this is better than nothing but is a lot less than it should be.
- (Vice-Mayor Schlapp momentarily absent)
- Unidentified Commented on the penalty section of the ordinance for someone under the age of 18 entering into a business that allows smoking and asked for clarification.
- Diane Tinker Ms. Tinker stated she is the local development director for the American Lung Association and expressed concerns regarding the ordinance and urged the Council to go 100 percent comprehensive or vote no today and that we need to do this right the first time. Requested that the Council be a leader and take the incentive and go comprehensive.
- Vickie Niebarger Ms. Niebarger stated she represents the American Heart Society and urged the Council to enact a comprehensive law with no exemptions and encouraged the Council to listen to the voice of the people.
- Matt Goolsby Mr Goolsby stated he feels it is a slap in the face to stand before the Council and say that this is not enough. Stated he feels this is disrespectful to the Council for all the work they have done and thanked the Council for their hard work and coming to a compromise.
- Judy Young Ms. Young resides at 7676 East Polo Drive and is the owner of River City Tour Company and gives tours to incoming physicians to the Wichita Clinic and other national organizations who wish to bring young professionals to Wichita. Stated when people come to Wichita from other parts of the country, they are shocked to find out that we do not have a clean air ordinance in Wichita and think we are behind times and do not care about our health.
- Council Member Fearey Council Member Fearey stated she was wondering that this come back to the Council in 2010 and her intent would not be to say let us bring it back to make it stronger but her intent would be to bring back so that the Council can look at the affect on businesses and see where we are on this and how our enforcement is going and look at fines and how much time it is taking. Stated would be one thing she would like to see added. Stated her other concern is under enforcement and thinks this should stay under Environmental Services as it was originally written. Stated they have the food inspections and are in our restaurants. Stated OCI has just taken over all of these other things and likes the way things are going with OCI and does not want to see us having to send those inspectors that we just pulled back, have to move into a whole new field. Stated she would like to change 7.56.060a, to read the authority to administer the provisions of this article is vested in the office of Environmental Service and his or her duly authorized, etc.
- Ed Flentje Interim City Manager stated city staff examined the issue of enforcement and he wanted to try and make it as simple and affective as possible. Stated the original draft of the ordinance had four city agencies engaged in this and he believes the way that it is now written, the enforcement will be both simple and affective and focus on smoker friendly businesses and those that are food establishments and those that want to have a smoker room in their facility. Stated we do not know whether that will be 50 or 100 or more, and visited with Kurt Schroeder of OCI and assured him that they will have whatever staff they will need on a temporary basis to get this enforced. Stated it is their conclusion that the enforcement will be largely self-enforcing but the ordinance that is written is both simple and affective.
- Council Member Skelton Council Member Skelton stated he feels that Council Member Fearey has a great point and that OCI was just restructured and does not want to see our neighborhood inspectors chasing smoke and will not support that and is not supporting the ordinance.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 35

Council Member Longwell Council Member Longwell stated when we look at enforcement we really need to focus on those smoker friendly businesses and combined most of the environmental services and OCI inspectors together several months ago, therefore, we do not have very many Environmental Services inspectors left out there. Stated OCI and the Fire Department have been inspecting bars and restaurants for many years and thinks we can affectively do that because of what we need to focus on. Stated he agrees that we can make that part of our reevaluation and add the inspection enforcement component back into that evaluation along with an evaluation of how affective the policy has been and how many businesses have chosen to go one direction or another and then reevaluate at that time. Stated when the Council started out months ago, their marching orders was to try and come up with a compromise. Stated the Council has heard from people on both sides that do not want a compromise and does not know if there is such thing as a compromise in some people's eyes. Stated they crafted a true compromise and believes it is moving them in the right direction. Stated he feels Council Member Fearey is right and it does need to be reevaluated and have a tool in place and it can be added as an addendum or make it part of the motion that we some kind of evaluation of this.

Council Member Fearey Council Member Fearey stated the restaurant inspectors were not taken out of Environmental Services and is still there, it was the neighborhood inspectors that were taken out, which remains her concern. Stated if the Council wants to keep this with OCI, then she would like to have the enforcement part looked at and evaluated much sooner than 2010, and would say within three to six months.

Mayor Brewer Mayor Brewer stated the Council appreciates the input they have been getting from everyone and has found it interesting how individuals on one side have that were against the smoking ordinance have said they are okay with the compromise and feel it is fair and the others who feel there should be a comprehensive ordinance, now are saying not to vote on this today. Stated this is a health issue and if it were a simple decision that the Council made that did not have any impact on anyone but a few people, he would say not to have a smoking ordinance. Stated if anyone today thinks that if the Council votes no today, will come back later with a comprehensive ordinance, it will not happen. Stated the state legislatures do not want to touch this issue so they will not give you anything. Stated he feels this is a good agreement and the best you will possibly get and encouraged everyone if they want something stronger, then make a phone call to the governing body of the state of Kansas.

Motion-- Longwell moved to approve the ordinance with a couple of minor amendments to the enforcement clause under (A) the authority to administer the provisions of this article as vested in the Office of Central Inspection and Environmental Services and his or her duly authorized representatives, whenever the need arises the superintendent of the Office of Central Inspection and the Officer of Environmental Services may call upon the Wichita Police Department and other departments of the City to aide in the enforcement of this chapter. Also under that same item under (D), include the Wichita Police Department and the Office of Central Inspection and the Office of Environmental Services shall while an establishment is undergoing otherwise mandated inspections, inspect for the compliance of this chapter and each such department may also enforce the provisions of this chapter through investigations of complaints filed in unannounced inspections of the premises and records regarding the compliance of this chapter. He would include that outside of this an addendum that would encourage actually want staff to evaluate and monitor businesses and keep records of those that choose to have smoker friendly establishments and those that choose to go smoke free, he would like to keep track of those and have an evaluation of those and bring back to the Council no later than the year 2010. Motion carried 4 to 3, (Nays-Gray, Schlapp, and Skelton).

--carried

## ORDINANCE NO. 47-892

An ordinance of the city of Wichita, Kansas concerning smoking in certain places of business, amending sections 7.56.010, 7.56.020, 7.56.030, 7.56.040 & 7.56.050 of the code of the city of Wichita, Kansas, repealing the prior versions of such sections, and adding new sections 7.56.021, 7.56.022, 7.56.060 and 7.56.070 to chapter 7.56 of the code of the city of Wichita. Longwell moved that the Ordinance be placed upon its passage and adopted. Motion carried 4 to 3, (Nays-Gray, Schlapp, and Skelton).

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 36

## NEW COUNCIL BUSINESS

### APPEAL

### APPEAL FROM AN ORDER OF THE CHIEF OF POLICE TO RECLASSIFY LOCAL LIQUOR LICENSE OF LOCO JOES LLC AT 417 EAST DOUGLAS. (DISTRICT I)

Tom Stolz

Deputy Chief of Police reviewed the item.

Agenda Item No. 5.

City ordinance defines a Drinking Establishment/Restaurant (DER) as a business that is open to the general public, sells liquor by the individual drink and meets one of the following requirements: The business shall derive not less than 50% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period; or such business shall derive not less than 30% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period and shall have not less than 70% of the public assembly area of the licensed premises devoted to designated seating for the service of food for consumption on the licensed premises. (See Wichita City Ordinance/Section **4.04.010(t)**) Minors under the age of 21 years are allowed on the premises of a DE/R but cannot consume alcohol. Any establishment not meeting the above food sales and seating space criteria is classified and licensed as a Drinking Establishment (DE), and minors under the age of 21 years are prohibited from entering or remaining on the premises.

The City Code also provides that a business licensed as a DE/R maybe reclassified as a DE in the event that the business fails to meet food sales or seating space criteria. Wichita City Ordinance/Section **4.16.095 (c)** authorizes the Chief of Police to reclassify any DE/R as a DE if the establishment “*fails to provide information showing either the required amount of gross revenues from sales of food or the percentage of floor space devoted to the designated seating according to the floor plan, and the service of food for consumption on the licensed premise*”. Subsection **4.16.095 (d)** of the City Code provides *that an order of reclassification issued by the Chief of Police may be appealed to the City Council within seven days from the date of the order*. An appeal from the Chief’s order to the City Council stays the order of reclassification until the Council resolves the matter.

Loco Joes LLC, located at 417 E Douglas, has been licensed as a DE/R since 10 August 2007. On 29 March 2008 Wichita Police Department Detectives served Mr. Joe Bidwell the owner of Loco Joes LLC with a letter requesting information showing that the establishment was in compliance with Section 4.04.010 (t) regarding percentage of food sales. A list requesting specific information necessary for the audit of Loco Joes LLC revenues was attached. As of 11 April 2008 Detective Quinn has yet to receive the audit information requested.

On 18 April 2008 Chief Williams sent a letter to Mr. Joe Bidwell, the licensee for Loco Joes LLC informing him that the establishment was being reclassified to a DE, due to failure to comply with City ordinance 4.04.010 (t).

If the City Council upholds the decision of the Chief, the licensee has the further option of appealing to the district court, pursuant to state statute. Such an appeal would not stay the order of reclassification.

Provide a safe and secure environment by enforcing City Ordinances regarding liquor licenses and drinking establishments.

James Thompson

Mr. Thompson is the attorney representing Loco Joes and Joe Bidwell, the licensee. Stated this establishment is an Old Town business and this building is 100 years old and is a historic building. Stated Mr. Bidwell has run into problems obtaining the permits for it and being able to fund the renovations needed for the kitchen. Stated he has obtained the permit now and has spent about \$2,400.00 trying to get the renovations done in a manner that is consistent with the Historic nature and décor of the building. Stated he is here to ask for additional time and has spent significant funds in renovating this building so that it can operate as a Mexican restaurant and there is about two weeks left on the completion of this restaurant.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 37

(Council Member Fearey momentarily absent)

Joe Bidwell Mr. Bidwell stated he should have the final inspection done in two weeks and will be serving food in two weeks. Stated his primary intention was to be a restaurant and it has taken some time getting the bid and had problems with the exhaust system. Stated he is on good terms with the community police officers and is asking for a two week extension.

Mayor Brewer Mayor Brewer asked the Council if they have problems with giving a three week extension in case he runs into problems.

Gary Rebenstorf Director of Law stated if the Council wishes to grant Mr. Bidwell a three week extension, his recommendation would be from the process that is in place by ordinance would be to recess this hearing for a period of three weeks and then have them come back and then make a determination whether they have complied and if they have, then the appeal could be overruled or if they have not complied, the license could be denied.

Motion-- Williams moved to recess this agenda item for three weeks as they come back before the City Council for compliance. Motion carried 7 to 0.  
--carried

## **SEWER PROJECT PUBLIC HEARING ON PROPOSED ASSESSMENTS FOR ONE (1) SEWER PROJECT IN JULY 2008 BOND SALE SERIES 794. (DISTRICT II)**

Chris Carrier Director of Public Works reviewed the item.

Agenda Item No. 6.

The City Council was notified on May 13, 2008 that the proposed assessment rolls were on file for public inspection in the Department of Finance.

Notice of hearing letters were published May 9, 2008 in the Wichita Eagle being not less than ten days prior to the date of hearing.

Statements of Special Assessment will be mailed to the property owners on May 22, 2008. The property owners have until May 30, 2008 to pay their assessment and avoid paying interest. The assessments not paid during this period will be in the July 2008 Bond Sale. The interest added to the principal amount will be determined by the rate at which the bonds sell. The principal and interest will then be spread and placed on the 2008 tax roll.

The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

The project was initiated pursuant to provisions of KSA 12-6a01 et seq. as amended. The project is:

480-900 468-84317 Lateral 1, Main 23, Four Mile Creek Sewer (78% Petition)

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

Motion-- Schlapp moved that the Public Hearing be closed; the proposed assessments approved; and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction. Motion carried 7 to 0.  
--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 38

## ORDINANCE NO. 47-893

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 1, MAIN 23, FOUR MILE CREEK SEWER, (North of 21st, West of 159th Street East). Brewer 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: Fearey, Gray, Longwell, Schlapp; Skelton, and Williams and Brewer.

### **BLDG. FAÇADE**

### **APPROVE BUILDING FACADE PROJECT IN THE CORE AREA. (DISTRICT VI)**

Allen Bell

Director of Urban Development reviewed the item.

Agenda Item No. 7.

2001, the City has provided a Facade Improvement Program. It is available to properties in defined areas, including the City's core area. On January 15, 2008, the City Council conceptually approved a request from Real Development for exterior improvements to seven high-rise buildings in the downtown area. Costs of improvements are paid through issuance of special assessment debt against the subject buildings. One of these buildings is the Wichita Executive Center (SC Telecom) Building at 125 N. Market.

On March 4, 2008, the City Council approved a petition, adopted a resolution and established a public hearing on March 18, 2008 to formally consider the request. Due to issues with fractional ownership and lending agreements, the public hearing was deferred to provide an opportunity to address these issues. On May 6, 2008 the City Council held a public hearing on the advisability of the facade improvements to the Wichita Executive Center (SC Telecom) facade (as part of an "ordering in" process), approved the project, adopted a resolution authorizing the creation of an improvement district and originally established a public hearing for May 20, 2008 to formally consider special assessments for these improvements. On May 20, 2008, a resolution was adopted to change the public hearing date from May 20 to June 3, 2008 to formally consider special assessments for these improvements.

The Wichita Executive Center (SC Telecom) Building is a nineteen story building with 312,875 s.f. located at 125 N. Market. The owners have begun interior improvements, remodeling common areas, adding technology infrastructure, replacing the roof, and various tenant improvements.

Exterior improvements to the Wichita Executive Center (SC Telecom) building include changing the entire appearance of the building facade on some sides to create a visually stimulating impact to travelers entering the downtown area. Facade improvements on this building are expected to be approved in two phases. At this time, only some ground level (phase one) improvements are being sought. These are exterior or facade enhancements necessary in conjunction with the main floor lobby and atrium improvements to be separately financed but jointly constructed as part of the overall building refurbishment.

Projected cost of the total facade improvements envisioned is \$4,796,264 (increasing to \$6,115,000 with estimated financing costs); however, the cost for phase one of the improvements is \$861,981 (increasing to \$1,078,801 with estimated financing costs). The proposal assumes 20-year special assessment financing. State law requires a formal public hearing to levy assessments against a special assessment benefit district.

This project will utilize a slightly different process than normal special assessments. The protest period that normally comes at the end of a completed project (after there is a final statement of cost) will instead take place on the front end. For this reason, a maximum assessment amount is provided, which cannot be exceeded. Therefore, a 10% contingency is included in the estimated costs. An administrative charge for the City that is part of the Facade Improvement Program and development fees for Real Development are also included.

The estimated project cost for this phase is \$1,078,801. Financing will be Taxable General Obligation

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 39

Special Assessment Bonds, paid as to principal and interest with special assessments levied against the improved property and will be backed by the full faith and credit of the City of Wichita. Staff has been working with Bond Counsel (Kutak Rock) and a Financial Advisor (Springsted) to perform due diligence with regard to the City's risk and how the bonds would be structured. Included in the issue will be a one year debt service reserve and a small financing contingency to mitigate risk and ensure the maximum assessment is not exceeded. Also, interest rates have been cautiously assumed at 6.75% for permanent financing. A "not to exceed" amount for the special assessment district is included in the ordinance.

The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings. State Statutes provide the authority for the City Council to order in public improvement projects, and to use special assessment funding. A formal public hearing is required as part of the approval process. A project was approved and a resolution creating the benefit district was adopted (May 6, 2008).

The maximum assessment ordinance allows a 30-day window for prepayment of the assessment from the date of adoption. The actual amount to be special assessed at the completion of construction may be less, but may not exceed the amount included in the resolution and ordinance. In the event actual costs are less than the amounts assessed, refunds will be calculated and distributed to any property owner that has elected to prepay assessments at that time.

Representatives from Real Development have requested the City exercise emergency adoption of the ordinances on first reading to allow construction to commence immediately. In as much as the building involved is under the ownership of Real Development and it's associates, who are making the special assessment request, a challenge or protest of the Council's action is unlikely.

The authorizing ordinance and the Declaration of Emergency have been reviewed and approved as to form by the Law Department.

Mayor Brewer

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

Motion--

Fearey moved that the public hearing be closed; find and declare, upon request of the Mayor, that a public emergency exists, requiring the final passage of the ordinance on the date of its introduction; and the maximum assessment ordinance and authorize the publication of the ordinance be adopted.

--carried

Motion carried 6 to 1, (Nay-Skelton).

## ORDINANCE NO. 47-907

An ordinance levying and assessing maximum special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of internal improvements in the city of Wichita, Kansas, as authorized by resolution no. 08-253 of the city, as amended by resolution no. 08-271 of the city (Wichita executive center building facade improvement district). Brewer 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 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp; and Williams and Brewer, (Nay-Skelton).

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 40

## **BROADVIEW HOTEL LETTER OF INTENT FOR BROADVIEW HOTEL INCENTIVES. (DISTRICT VI)**

Allen Bell

Urban Development reviewed the item.

Agenda Item No. 8.

The Broadview Hotel was built in 1922 and has been an important downtown landmark ever since, due to its prominent location at Douglas and Waco, next to the Douglas Avenue Bridge over the Arkansas River. In recent years, the Hotel has struggled; it has spent most of the past ten years in bankruptcy. In 1996, the City of Wichita provided incentives to Grand Heritage Hotels for the acquisition and rehabilitation of the Broadview, which included industrial revenue bonds (IRBs), property tax abatement and purchase of the Broadview Parking Garage by the City.

In 1999, the successor to Grand Heritage placed the Broadview in bankruptcy, which led to it being taken over by the bank that owned the IRBs. The bank retired the IRBs and sold the hotel to a group of investors from Miami and Los Angeles. A dispute among the owners, unrelated to the Broadview Hotel, resulted in the hotel going back into bankruptcy in 2004, where it remains to this date. The debtor-in-possession has failed to present an acceptable reorganization plan for the Hotel and the first mortgage lender has filed for foreclosure on the property.

In December 2007, PAZ Management, Inc. a real estate investment firm from Poughkeepsie, NY entered into a real estate purchase agreement to purchase the Broadview Hotel from the bankruptcy debtor-in-possession. The agreement contained certain provisions relating to obtaining financial assistance from the City of Wichita as a condition for the purchase of the Hotel. PAZ and City staff have negotiated the terms of a Letter of Intent to provide IRB and general obligation (GO) bond financing and other incentives for the acquisition and rehabilitation of the Broadview Hotel.

The Letter of Intent, addressed to PAZ as managing member of Partner Hospitality LLC (PH), contains the elements outlined below, including the issuance of IRBs and GO bonds to finance the acquisition and rehab of the Hotel and Parking Garage, the sale of the Parking Garage to PH Garage Properties LLC, property tax abatement on the Hotel and Parking Garage and other incentives.

### Industrial Revenue Bonds

The City would issue two series of taxable IRBs in an aggregate principal amount not-to-exceed \$30 million to finance the acquisition and rehab of the Hotel and parking garage. The actual amount to be issued will be determined by a detailed property improvement plan prepared for the Broadview Hotel by a hotel chain whose brand affiliation would be attached to the hotel, as approved by the City. The Series "A" IRBs will be purchased by the developer's senior lender and will be superior in lien to all other bonds, with respect to the payment obligation and claim to collateral. The Series "B" IRBs will be purchased by the developers and other equity investors in the hotel and garage. Structuring the equity investment as a subordinated IRB facilitates maximum benefit from property tax abatement.

### General Obligation Bonds

The City would issue taxable GO bonds to fund a loan to the developers in the amount of \$4.5 million, using its constitutional home rule authority. The loan would be structured as an IRB-type lease obligation, with the hotel's bond payment obligation being subordinated to the payment of the Series "A" IRBs, but senior to the payment of the Series "B" IRBs. The GO bonds would be structured with three years of interest-only payment, a 15-year term and 20-year amortization, with a balloon payment at the end of 15 years. Proceeds would be used to finance rehab costs and would include a capitalized interest reserve to pay interest during the first three years.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 41

## Purchase of Parking Garage

The City would sell the Broadview Parking Garage to the developers for the amount needed to retire the City's special obligation bonds that were issued to acquire the garage in 1997. There is currently approximately \$800,000 left outstanding. Approximately \$650,000 in delinquent Special assessments will be paid to the City, in addition to the \$800,000 purchase price. The real estate contract governing the sale of the garage will stipulate that the garage will continue to serve as a public parking garage and be available for event parking for Century II.

## Property Tax Abatement

Using IRB authority, the City would grant 100% property tax abatement for the hotel and parking garage, to the maximum extent allowed by law. State law may not allow an exemption on the portion of the property financed by the GO bonds.

## Façade Improvement Loan

The City would allow the Hotel to participate in its Façade Improvement Program. The preliminary property improvement budget identifies approximately \$120,000 in façade costs that would be eligible for this program. Improvements would be financed with City special assessment bonds, to be paid over a 15 or 20-year period.

## Riverbank Improvements

The City would agree to accelerate the priority for completing programmed improvements to the Arkansas River riverbank adjacent to the Broadview Hotel between Douglas and First Street. The City would direct its riverbank design consultants to collaborate with the developer's consultants to ensure the improvements coordinate with and compliment the Hotel renovations.

## Historic Preservation Tax Credits

The City would assist the developer to obtain, at their sole discretion, historic place designation and help with the process of obtaining tax credits.

## Conditions Precedent

As a condition for obtaining any City incentives, the developer must obtain a binding written commitment for a hotel franchise from either Wyndham Hotels or Marriott Renaissance Hotels, or a similar hotel chain acceptable to the City. In addition, standard IRB letter of intent conditions will apply.

## Cost-Benefit Analysis

State law requires a cost-benefit analysis be conducted prior to the approval of property tax abatements. Since the actual amount of investment will not be known until a hotel franchise commitment is received, following the development of a property improvement plan, the required cost-benefit study will be performed, and the tax abatement formally approved, at the time the IRBs are issued.

PAZ Management agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The actual amount of the proposed property tax abatement cannot be estimated until the amount of the property rehab costs are known. The current taxes on the Broadview Hotel are approximately \$166,000.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 42

The City's general obligation bonds issued for this project would be sold as part of the City's regularly scheduled semi-annual bond sales. The bonds would be payable in the first instance by lease payments from the Broadview Hotel, and to the extent that lease payments are not received, by City tax funds in the Debt Service Fund. In this case, City tax funds could be liable for up to \$4.5 million of principal, plus accrued interest on the bonds. Use of monies in the Debt Service Fund could negatively impact the ability to initiate projects in the Capital Improvement Program. The Hotel's obligation to make lease payments to the City would be subordinate to payments to the Series "A" bondholder, and the general obligation bonds will not be secured by the Hotel or Garage property.

Economic Vitality and Affordable Living and Core Area and Neighborhoods. The vitality of the downtown area and the viability of the Century II Convention Center is directly impacted by maintaining first-class hotels in the Core Area.

Bond documents would be prepared by the City's contract bond counsel, Kutak Rock LLP and reviewed and approved as to form by the Department of Law. The use of general obligation bonds to fund economic development grants and loans has been tested in court and found to be legal in Kansas.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

John Todd

Mr. Todd resides at 1559 Payne, stated he is a Wichita real estate broker and developer and speaks in opposition to the request for the tax breaks for the prospective buyers for the Broadview Hotel. Stated he has bought and sold parcel of real estate over the years for anticipated profit without the need for tax payer subsidy and believes it is unreasonable and inappropriate for the prospective buyers of the Broadview Hotel to ask Wichita tax payers to contribute to their anticipated financial profits in this proposed transaction. Stated he believes it is wrong for the City Council to give them money from the tax payer's treasury particularly when you are talking about unsecured and subordinated positions, which are high risks speculative type loans. Stated Wichita tax payers need to be left out of this transaction.

John Rolfe

Mr. Rolfe stated he is the CEO of the Greater Wichita Convention and Visitor's Bureau, shared his remarks regarding the importance of the Broadview Hotel to their downtown convention center package and to their tourism efforts.

Christopher O'Brien

Mr. O'Brien stated he is debtor's counsel for the Broadview Hospitality Holdings, LLC in bankruptcy. Stated Judge Nugent has entered an order that certain things need to be in place by May 31<sup>st</sup>, which was extended to today, in order to avoid the payment of adequate protection payments to Sunflower Bank, so to forestall their foreclosure proceeding. Stated if this is not successful today, there would be the need to make those payments to the court and would put a strain on the hotel and the hotel cannot operate forever under bankruptcy. Stated if this sale does not go through, there is a process involved here and that is this is under the jurisdiction of the United States Bankruptcy Court and a decision was made last summer to sell the hotel. Stated to this date there have not been any potential prospects brought to them. Stated the private parties that have come forth, the court has turned down contracts from other parties saying that they are not in the best interest for the sell of the property. Stated this particular contract has been passed twice by Judge Nugent saying he believes that this contract if it can be closed is in the best interest of the creditors, many of which are members of this community. Stated in April the court granted an extension to allow this process to go through and allow the buyers time to negotiate with the City. Stated if there are other potential buyers out there, they have not surfaced to the level of the point where a contract has even been allowed to be presented. Stated one other contract was presented to the court and was turned down and most of the time it is because he feels there are several buyers that are waiting for purchase of this at a very low price.

(Vice-Mayor Schlapp momentarily absent)

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 43

Ossie Reckus

Mr. Reckus stated he is with the current investors who are looking at purchasing the hotel. Stated he is from New York and he originally came to the area to take over the Halstead Hospital that has been closed for four years and has taken it over a year ago. Stated while looking for a hotel to stay in he noticed that unless he makes reservations in advance, he will have a hard time finding a hotel on a regular mid week day and when he asked where he could spend his time in Wichita, everyone would tell him to go and visit Old Town, which he has done several times. Stated during his visit he noticed our beautiful river and was amazed to find out that the City has not maximized the potential of the river to the extent that many other cities do. Stated he stayed in the Broadview Hotel, which he was very impressed with and the friendliness of the people. Stated the City has a treasure downtown and if you want continued growth in the City, this place needs to be one of the most important downtown landmarks that need to be included on our brochures. Stated he is has 26 years in hospitality and have taken two hotels that were in bankruptcy and turned them around. Stated this is a big risk to him and will require some risk on the City's part.

(Council Member Gray momentarily absent)

(Council Member Skelton momentarily absent)

Jacob Reckus

Mr. Reckus stated the hotel right now through its current management team, which has done a great job, has been in bankruptcy for four years. Stated they are hoping and planning to give them the resources so that they can go out with a top tier hotel not only to the local community but to also work with the CVB and find other business and bring into the City. Stated they do believe that if you take the asset of the history of the hotel and the charm of it and give it the resources and put in a full renovation, that we will have something that we can all be proud of. Stated most of the experience they have is with independent properties and they were planning on running this hotel as an independent property. Stated working with flags increased the total project costs and working with flags is a positive issue but increases the cost. Stated the project cost is a projected \$25 million dollars and tried to give an honest assessment of whether or not putting dollars out into this project have a positive impact on the City and there is a risk in that versus the risk of not putting dollars into the project and does putting a dollar into this project make sure that through tax dollars and tourism dollars, the City benefits on the whole. Stated if there is a direct impact then that is how they feel comfortable even asking the Council for it. Stated they do believe this is a strong and viable project.

Bob Weeks

Mr. Weeks resides at 2451 Regency Lakes Court, spoke on TIF Districts.

Council Member Longwell Council Member Longwell stated there are no TIFs drawn up in this contract.

Unidentified

Stated she is proud of the Broadview Hotel and thinks they have done an exceptional amount of great work in the last two to three years. Stated this hotel is a landmark and the Reckus's have researched everything that they could on Wichita with the history of the hotel. Stated they have a lot of great contacts and contracts and the hotel now and she has lived through the other ownership prior to the bank owning them right now and has seen a lot of great companies come back to them such as Cessna, Learjet, Red Cross, Cancer Society and wants to let the Council know that it is something to be proud of and they are doing a great job and with a little help and the right people, it can be even better. Stated the Reckus's are genuine and would like to help them keep the Broadview here on the map and is speaking on behalf of all the employees at the Hotel and would appreciate the Council's consideration today.

Mayor Brewer

Mayor Brewer stated this is not about the employees who manage the hotel and that they have done a great job and changed the perception and want to keep the hotel. Stated it is the process in how we have to do it.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 44

Council Member Longwell Council Member Longwell stated he appreciates the comments made today and cares a lot about the Broadview Hotel and wants to see it succeed. Stated he feels it is an important landmark for our City and thinks it is important to our community in regards to our ability to bring in additional revenue and all of the things we are trying to do. Stated he thinks we are getting very close in this City to building that critical mass that is going to help make many of these types of venues very successful and when we start seeing the arena come out of the ground and a lot of the opportunities that WaterWalk is going to bring. Stated his problem is balancing this risk issue again and we are giving up way too much risk for the return on investment and he cannot support it for that reason. Stated he still feels there are opportunities to resurrect this and make sure it is going to be a very successful venue and thinks we are getting really close but thinks we are giving up too much. Stated if they want to come back to the drawing board and negotiate, they can do that.

Motion-- Fearey moved to defer the letter of intent for the Broadview Hotel incentives until June 17<sup>th</sup>. Motion  
--carried carried 7 to 0.

## RECESS

Motion--carried Brewer moved to recess until 1:45 p.m. returning to this location. Motion carried 7 to 0.

## RECONVENED

The Council reconvened in the Council Chambers at 1:58 p.m.

## TENNIS CENTER

### SERVICES AND MANAGEMENT FOR THE RALPH WULZ RIVERSIDE TENNIS CENTER. (DISTRICT VI)

Doug Kupper Park and Recreation Director reviewed the item.

Agenda Item No. 9.

The management of the Ralph Wulz Riverside Tennis Center has been under contract with Mr. Jack Oxler since 2001, to provide tennis program development, marketing and instruction. The current contract expired on May 31, 2008.

The Park Department is working with the Controller's office and the Human Resources Department to convert the contract tennis professional to a City position. The conversion is the result of findings from an audit by the Internal Revenue Service. A sixty (60) day extension of the current contract is requested to allow for the hiring process to be completed.

The 2008 adopted budget includes funding for the extended contractual relationship. The 2008 adopted budget also includes existing funding for the new tennis professional position.

This change will impact the Quality of Life Goal by providing citizens a quality tennis facility with recreational and competitive activities, leagues and tournament play for Wichita citizens to enjoy.

The contract amendment has been reviewed and approved as to form by the Law Department.

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

Motion-- Fearey moved that the contract extension be approved and all the necessary signatures authorized.  
--carried Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 45

## **KINGSBURY TRACT KINGSBURY TRACT DEVELOPMENT. (DISTRICT VI)**

Doug Kupper

Park and Recreation Director reviewed the item.

Agenda Item No. 10.

On September 11, 2007, City Council approved funding of design services for the Kingsbury Tract. The purpose of this effort was to produce and develop Conceptual Design Development Plans for Kingsbury Park. The Concept Design Development Plans will refine the approved master plan to a more detailed level and allow planning for new improvements. This plan is needed to help Cornejo Sand Production plan their soil movements and shoreline development.

On December 21, 2007, the City received proposals from eight companies to prepare Conceptual Design Development Plans for Kingsbury Park. The Staff Screening and Selection Committee (SSSC) met on January 30th, 2008 to short list the companies of RDG Planning and Design, Landplan Engineering, Inc., Ochsner Hare and Hare, and Mid Kansas Engineering Consultants and invited each firm to present their proposals to the SSSC on February 22<sup>nd</sup>, 2008. The SSSC selected the firm of RDG Planning and Design based on the specific merits of their proposal, presentation and expertise in regional park design.

The 2007 CIP provides \$350,000 for Land Acquisition and Development and was approved to fund Design Services for Kingsbury Park.

The Law Department has approved the contract as to form.

The initiation of this project will greatly enhance the Quality of Life for citizens of Wichita by increasing recreational opportunities. Kingsbury Park could become a major attraction for locals and out of town visitors looking for better opportunities in aquatic recreation.

Mayor Brewer

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

Motion--  
--carried

Fearey moved that the contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 46

## 2007 CAFR

## 2007 COMPREHENSIVE ANNUAL FINANCIAL REPORT.

Kelly Carpenter

Director of Finance reviewed the item.

Shelly Hammond

Vice President of Allen, Gibbs, and Houlik gave a brief summary of the results of their audit.

Agenda Item No. 11.

Kansas state law requires an annual audit of all City accounts to be performed by an independent certified public accounting firm at least annually. The Comprehensive Annual Financial Report (CAFR) and the report on compliance are for the year ended December 31, 2007.

The 2007 CAFR also incorporates the specific requirements of the water and sewer revenue bond covenants, eliminating the necessity of a separate publication by the Water and Sewer Department.

The City's Comprehensive Annual Financial Report is designed to provide information needed by interested parties to gain an understanding of the government's financial position, results of operations and cash flows. The independent certified public accounting firm of Allen, Gibbs & Houlik, L.C. issued their opinion that the general purpose financial statements present fairly, in all material respects, the financial position of the City as of December 31, 2007, and the results of its operations and the cash flows of its business-type activities and component unit in conformity with generally accepted accounting principles. The Wichita Public Building Commission is considered a component unit and has been appropriately reflected in the financial statements as part of the financial reporting entity.

The Government Finance Officer's Association (GFOA) of the United States and Canada awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its Comprehensive Annual Financial Report for the year ended December 31, 2006. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized CAFR, with content that conforms to program standards. The 2006 award represents the 34th consecutive year in which the City has earned this award. Staff believes that the 2007 CAFR continues to meet GFOA standards for certification and the City has applied for this recognition.

The 2007 CAFR reports the financial status of the City's funds as of December 31, 2007.

The Internal Perspective is advanced with the 2007 Comprehensive Annual Financial Report, and the opinion and reports of the independent auditors, by fairly reporting the financial condition of the City to the City Council, the Citizens of Wichita, and to investors. In addition, the report demonstrates legal and budgetary compliance with applicable laws and ordinances for report year.

Kansas law requires an annual audit of City financial records by a certified public accounting firm (K.S.A. 75-1122) in accordance with the minimum standard audit program (K.S.A. 75-1123).

Mayor Brewer

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

Motion--

Brewer moved that the 2007 Comprehensive Annual Financial Report and the Independent Accountants' report regarding internal control and compliance with administration of major federal programs for the year ended December 31, 2007 be received and filed. Motion carried 7 to 0.

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 47

## ACQUISITION

### ACQUISITION OF 711 WEST 2ND STREET AS A SITE FOR THE PROPOSED DOWNTOWN LIBRARY. (DISTRICT IV)

John Philbrick

Property Management reviewed the item.

Agenda Item No. 12.

On November 6, 2007 the City Council approved the search for a site for a new downtown library. This approval delineated site size, general location and basic site requirements. As a result of this search, a site at 711 West 2<sup>nd</sup> was identified as the optimum location. The site is located in the southwest quadrant of 2<sup>nd</sup> Street and McLean Boulevard. It is 9.179 acres in size and is zoned Limited Industrial. It is currently improved with a 39,192 square foot brick office/showroom/warehouse facility. These improvements will need to be removed to allow the site to be redeveloped. This site was identified as the preferred site by the Library Board.

The property was appraised by the owners for \$4,400,000. It was appraised for the City for \$3,100,000. After negotiations, the owners agreed to accept \$3,400,000 in addition to the City owned, 12,000 square foot warehouse building at 740 West 2<sup>nd</sup> Street. The 740 West 2<sup>nd</sup> building had been appraised at \$240,000. The owners have also agreed to remove the remaining improvements. The City had estimated the cost of this demolition at \$100,000. The owners will continue to utilize some portion of the site for storage for up to 36 months unless the site is needed sooner by the City.

The funding source for the project is General Obligation Bonds. A budget of \$3,450,000 is requested. This includes \$3,400,000 for acquisition and \$50,000 for closing costs, surveys, title insurance and other related costs.

The acquisition of this parcel will help promote the quality of life in the Wichita area.

The Law Department approved the contract and lease as to form.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Evelyn Neier

Ms. Neier stated she serves on the Wichita Public Library Board. Stated that the proposed location provides proximity to other cultural establishments in the museum district and the location would give the new library excellent visibility and access to public transportation. Stated she strongly encourages the Council to approve the acquisition of this property and appreciates the Council's willingness to move forward with the Wichita Library Master Plan.

Steve Roberts

Mr. Roberts stated he is on the Board of Directors of the Wichita Public Library. Stated they have time pressure in a financial sense from the increase in costs of energy and construction and from the increase and constriction of available parking in the central core area with the development of WaterWalk and the new arena.

Motion--

--carried

Gray moved that the Budget, the Real Estate Purchase Contract, and the Lease Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 48

## TRANSITION PLAN APPROVAL OF CITY OF WICHITA'S FINAL TRANSITION PLAN.

Gary Rebenstorf

Director of Law reviewed the item.  
Agenda Item No. 13.

The City of Wichita conducted a self evaluation of City facilities in 1992 as required by the Americans with Disabilities Act (ADA). At that time, the obligations of cities had not yet been fully formed, and numerous regulations that now have the force of law had not yet been passed. After that date, City staff incorporated appropriate standards for accessibility into new construction and some remodeling work, but without comprehensive coverage and without being a part of a coordinated plan.

The City was sued in 2005 for failure to comply with certain aspects of ADA requirements, and chose that action as the vehicle to launch a full-scale revamp of the City's approach to accessibility. One of the principal provisions of the settlement agreement in that lawsuit called for an independent, third-party evaluation of all city facilities for Americans with Disabilities Accessibility Guidelines (ADAAG) conformity, and development of a detailed plan on how those modifications were to be accomplished. The evaluation was conducted by a contractor selected with the participation and approval of the plaintiff in that lawsuit. The final transition plan has been reviewed and modified by staff, and is ready for Council review and approval. City staff has made substantial changes to the contractor proposals, all of which conform to ADAAG standards. The final transition plan, as modified, has the unanimous recommendation for approval from the City-County Access Advisory Board, by virtue of a vote on April 23, 2008. This is an organic document, and additions and modifications will be made as necessary to address changes in the structure or use of City facilities. The Final Transition Plan is several hundred pages long. It can be viewed on the City's web site at <http://www.wichita.gov/CityOffices/CityManager/Administrative/ADA/TransitionPlan.htm>

The final transition plan proposed sets a timetable for all modifications to be complete by 2017. The changes are carefully structured to fit within the current Capital Improvement Program (CIP), and should not require extraordinary funding. Through a combination of in-house maintenance work, incorporation of ADAAG standards into existing new construction or remodeling work, and use of previously approved CIP funds, the City is already in compliance at a level beyond that anticipated by the time tables in this plan.

The settlement agreement requires the City to conform to standards that could be enforced by either private action or by the intervention of the federal Department of Justice. The adoption of the final transition plan will bring the City into compliance with federal law, meet the City's obligations under the settlement agreement from the 2005 legal action, and will inoculate the City from future claims based on claims of ADA non-conformity.

The adoption of the final transition plan will have a positive impact on the efficient infrastructure goal, as access to public facilities is created or improved for citizens with disabilities. The goal of quality of life will also be positively affected, as the improvements to access allow those with mobility or other challenges to participate to a greater extent in the public life of the community. Those persons without disabilities also often appreciate and use the facility improvements.

David Calvert

Mr. Calvert stated he is the attorney and represents the Independent Living Resource Center and chairs the Wichita Sedgwick County Access Advisory Board. Stated the City undertook a program of self-evaluation of all of its programs, services, and facilities and discovered over 3,000 areas that were not in compliance with ADA. Stated the City has aggressively sought to modify those facilities and programs by instituting training programs, appointing departmental ADA coordinators, establishing a compliance team, and fixing the problem. Stated the transition plan that was developed provided for the elimination of barriers starting with high priority items that were to be addressed immediately and moving through to low priority items that would be addressed over the next ten years as facilities are modified or replaced. Stated as part of that commitment, the City created the Access Advisory Board, which has been informed of the progress and the City has sought advice from the board. Stated the

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 49

results of the City's work have been most gratifying and most of the items in the Transition Plan that

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 50

were to be completed by the end of 2009, will be completed by the end of this year. Stated this is a living document and subject to modification when circumstances call for it. Stated when this plan is complete, Wichita will be one of the most accessible cities in the United States and thanked the Council for being proactive in its initial vision.

Mayor Brewer

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

Motion--  
--carried

Brewer moved to approve and adopt as a future planning tool the Final Transition Plan for the City of Wichita that encompasses ADA access improvements for City facilities. Motion carried 7 to 0.

## GRANT

### WICHITA POLICE DEPARTMENT AND LAW DEPARTMENT DOMESTIC VIOLENCE PROCESS SERVER GRANT.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Item No. 14.

The Prosecutor's Office and the Police Department have submitted an application for grant funds to hire off duty law enforcement officers to personally serve domestic violence subpoenas. The grant is from the State Crime Victims' Assistance Fund, through the Office of the Attorney General of the State of Kansas. Domestic Violence victims are difficult to locate when serving judicial process. Often an offender will intercept the process that is mailed; a victim will move without any forwarding address, victims will stay with friends or at a shelter without updating contact information. Often, this results in many difficulties to serve them with a subpoena to appear for trial. The Wichita Police Department and the Prosecutor's Office have developed an internal process for personally serving a small portion of victims and witnesses in domestic violence cases. Of this number, there is success in summoning the victims/witnesses for trial. This results in justice being served, as well as allows victims to access services at this stage of the proceedings. This grant opportunity would allow an increased number of domestic violence cases to have personal service of subpoenas. The grant application has already been signed by the City Manager pursuant to authority under Administrative Regulation 2.4, where delay would invalidate the grant.

The Kansas Attorney General's Office, State Crime Victims' Assistance Fund, is offering this grant opportunity for new or existing programs to offer or enhance victim services in the State of Kansas. The application submitted would enhance process service to victims/witnesses of domestic violence.

The grant request is for \$25,000.00 with a 25% cash match. The grant proposal anticipates the 25% match be derived from vehicle expenses and other office expenses necessary for such a program, purchased from the Wichita Police Department budget.

Provide a safe and secure community by placing an emphasis on reducing domestic violence offenses by notification and summons of those victims/witnesses who currently have an undocumented notice for appearance in domestic violence prosecutions, and allowing victims of domestic violence to access victim services at the adjudicatory stage of the judicial process.

Law Department has reviewed the grant application.

Mayor Brewer

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

Motion--carried

Brewer moved that the application be approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 51

## CHARTER ORD.

## CHARTER ORDINANCE-MUNICIPAL COURT JUDGES, POLITICAL ACTIVITY.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Item No. 15.

Charter Ordinance No. 90, adopted in 1983, established the current system of full-time appointed municipal court judges, including qualifications, appointment, vacancies, divisions, and dockets. This Charter Ordinance has been amended nine times between 1992 and 2001. Many of these amendments affected the procedures for appointment of judges.

With judges becoming full-time, Charter Ordinance no. 90 included provision that prohibited the outside practice of law. It also prohibited municipal court judges from running for elective office, making political contributions, or taking part in a political campaign. It is the recollection of staff and past and present municipal court judges that one of the amendments in the late 1990s intended to repeal the prohibition on political activity. While it has been treated as repealed, this prohibition on political activity has never been formally removed from the Charter Ordinance.

The proposed amendment to Charter Ordinance No. 90, repealing section 7, is intended to correct a drafting oversight in an amendment to the Charter Ordinance in the late 1990s. The amendment will repeal the provision that prohibits political activity by municipal court judges.

This is a Charter Ordinance and requires approval by 2/3 of the City Council.

There is no financial impact of the ordinance.

The proposed amendment addresses the internal perspective in updating ordinances.

The Charter Ordinance has been drafted and approved as to form by the Law Department. It corrects an apparent oversight in the drafting of a previous Charter Ordinance.

Mayor Brewer

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

Motion--  
--carried

Brewer moved that the Charter Ordinance be placed on first reading, and published twice after final approval. Motion carried 7 to 0.

## CHARTER ORDINANCE

A charter ordinance of the city of Wichita, Kansas, repealing section 7 of Charter Ordinance No. 90, pertaining to political activity of Municipal Court Judges. Introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 52

## ORDINANCE

### AMENDMENTS TO THE EXEMPT EMPLOYEES CLASSIFICATION ORDINANCE.

Sarah Gilbert

Director of Human Resources reviewed the item.

Agenda Item No. 16.

Classification Ordinances establish City employee job classifications and corresponding pay ranges. Amendments to the Exempt Employee Classification ordinance are proposed periodically to establish new classifications.

*The following amendment is proposed to the Exempt Employee Classification Ordinance:*

- Establish the classification for Tennis Professional. These services at the Ralph Wulz Tennis Center and other City tennis facilities are now provided through a contract. Approval of the Ordinance will assign the duties to a City employee. The proposed pay range is C42, the same as the Golf Professional.

The cost of the new Tennis Professional classification is included in the Department of Parks and Recreation budget.

As a human resources and financial issue, goal impact falls under Internal Perspective.

The Department of Law has reviewed the ordinance and approved as to form.

Mayor Brewer

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

Motion--carried

Brewer moved that the ordinance be adopted and placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An ordinance establishing position classifications for exempt employees of the city of Wichita and prescribing pay rates by reference to position classifications in the schedule of pay ranges repealing Ordinance No. 47-701. Introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 53

## PLANNING AGENDA

Motion--  
--carried

Brewer moved that Planning Consent items 17 to 23 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

ZON2000-45

### ZON2000-45 – EXTENSION OF TIME TO COMPLETE THE PLATTING REQUIREMENT FOR A ZONE CHANGE FROM SF-5 SINGLE-FAMILY RESIDENTIAL TO LC LIMITED COMMERCIAL. GENERALLY LOCATED SOUTH OF CENTRAL AND WEST OF TYLER ROAD. (DISTRICT V)

Agenda Item No. 17.

**Staff Recommendation:** Approve a one-year extension of time to complete platting to May 14, 2009.

On November 14, 2000, the City Council approved a zone change request from SF-5 Single-Family Residential “SF-5” to LC Limited Commercial “LC” on property located south of Central and west of Tyler Road. Approval of the zone change request was subject to the condition of platting the property within one year. The last extended platting deadline was May 14, 2008. Five platting extensions have been granted, and the original applicant proposed deferring platting until the property sold. The property has now sold, and the current owner is requesting another platting extension, as the owner considers building a retail facility on the property. Therefore, the applicant requests an additional one-year extension of time to complete platting. Such an extension of time to complete platting requires City Council approval.

Staff recommends that a one-year extension of time to complete platting requirements be granted to May 14, 2009. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Promote Economic Vitality and Affordable Living.

No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--  
--carried

Brewer moved that a one-year extension of time to complete platting to May 14, 2009 be approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 54

ZON2008-15

**ZON2008-15-CITY ZONE CHANGE FROM SF-5 SINGLE-FAMILY RESIDENTIAL TO LC LIMITED COMMERCIAL; AMENDED TO NR NEIGHBORHOOD RETAIL. GENERALLY LOCATED ON THE NORTH SIDE OF HARRY STREET BETWEEN TODD AND SHILOH STREETS. (DISTRICT II)**

Agenda Item No. 18.

**MAPC Recommendation:** Approve NR Neighborhood Retail, subject to Protective Overlay #211 (unanimous).

**DAB II Recommendation:** Approve NR Neighborhood Retail, subject to Protective Overlay #211 (unanimous).

**MAPD Staff Recommendation:** Approve NR Neighborhood Retail, subject to Protective Overlay #211.

Initially, the applicant was seeking LC Limited Commercial ("LC") zoning for 1.32 acres located on the north side of east Harry Street approximately 2,600 feet west of Greenwich. The site is zoned SF-5 Single-family Residential ("SF-5") and developed with what appears to be a vacant residence. The site has 250 feet of frontage along Harry Street with two driveways. At the Metropolitan Area Planning Commission (MAPC) meeting on April 10, 2008, the applicant amended his request to NR Neighborhood Retail ("NR"), subject to following Protective Overlay ("PO"):

1. The following uses shall not be permitted: Group Residence, Limited; Correctional Placement Residence, Limited; Group Home, General; Restaurant and Retail General;
2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre; and
3. Buildings shall be limited to a maximum height of 45 feet.

The proposed PO brings the request more in compliance with expected development patterns by eliminating general retail and restaurant uses, which would be problematic at this location, but would permit "personal improvement" and "personal care" uses that are typically smaller in scale and less intense activities than general retail uses.

Property to the east is zoned SF-5 and developed as a single-family residence on a large lot that wraps around to the north of the applicant's site. Further east of the site is a utility substation, also zoned SF-5. Further north of the next door neighbor's property is Reserve C of the Crystal Creek Addition, zoned SF-5, which is a single-family residential neighborhood. South of Harry Street and a drainage ditch are single-family residences, also zoned SF-5. West of the site is a church, zoned GO General Office ("GO"), and subject to Protective Overlay 94. PO-94 prohibits the following uses: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general and hotel or motel; limits residential development to a maximum density of 17.4 dwelling units per acre and limits building height to 45 feet.

The Metropolitan Area Planning Commission initially heard the request for LC zoning on April 10, 2008. At that meeting, the applicant requested a deferral in order to revise his application from LC to NR, subject to a Protective Overlay. The MAPC approved the request for a deferral to April 24, 2008. At the MAPC meeting of April 24, the request for NR, subject to the Protective Overlay discussed above was approved 12-0. DAB II reviewed this request on April 7, 2008. The DAB approved the request (7-0) subject to staff recommendation. No protest petitions have been filed.

Promote economic vitality.

The ordinance has been reviewed and approved as to form by the Law Department.

Motion--

Brewer moved to concur with the findings of the MAPC, approve the zone change subject to Protective Overlay #211, place the ordinance approving the zone change on first reading and publish the ordinance in the official City newspaper following adoption. Motion carried 7 to 0.

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 55

## ORDINANCE

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended. Introduced and under the rules laid over.

ZON2008-17

**ZON2008-17 – ZONE CHANGE FROM SF-5 SINGLE-FAMILY RESIDENTIAL TO LC LIMITED COMMERCIAL; GENERALLY LOCATED NORTH OF CENTRAL AND WEST OF ELDER. (DISTRICT VI)**

Agenda Item No. 19.

**MAPC Recommendation:** Approve, subject to platting within one year and a Protective Overlay (13-0).

**MAPD Staff Recommendation:** Approve, subject to platting within one year and a Protective Overlay.

**DAB Recommendation:** Approve, subject to staff recommendations.

The application area is zoned SF-5 Single-family Residential (“SF-5”) and was developed with a residence which was recently demolished. The .75 acre site is unplatted, but currently in the platting process. The applicant wishes to develop the site with a commercial building and requests LC Limited Commercial (“LC”) zoning. The site has one access point on Central and no access points from Elder.

The applicant proposes a Protective Overlay (PO), see the attached ordinance. The proposed PO would restrict uses deemed incompatible with the surrounding residences; it would be redundant to existing codes regarding screening and landscaping. It would also limit parking lot lights to 25 feet in height and prohibit signs on the north sides of buildings.

MAPC heard this request on April 24, 2008, and DAB VI heard this request on April 16, 2008. Both bodies approved unanimously; no one spoke against the request at the public hearings and no protest petitions were filed. The MAPC recommendation deviated from the staff recommendation regarding access location on Central; the MAPC recommendation was consistent with the plat approved earlier at the same hearing.

Since the MAPC hearing, the staff recommendation was amended to remove “group home, limited” from the prohibited uses in the PO, consistent with legal staff recommendation. The applicant agrees with this change to the PO, as is not a substantive change. Because this recommendation is different than that approved by MAPC, the council is required to have a 2/3 vote to approve.

Promote Economic Vitality.

The ordinance has been reviewed and approved as to form by the Law Department.

Motion--

Brewer moved to adopt the findings of the MAPC and approve the zone change subject to a PO and subject to platting within one year (requires a 2/3 majority vote of the City Council on the first hearing), withhold publication of the ordinance until the plat is recorded. Motion carried 7 to 0.

--carried

## ORDINANCE

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended. Introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 56

SUB2008-17

## SUB 2008-27-PLAT OF FOLIAGE FOURTH ADDITION LOCATED NORTH OF 13TH STREET AND ON THE WEST SIDE OF WEBB ROAD. (DISTRICT II)

Agenda Item No. 20.

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (12-0)

This site, consisting of seven lots on 5.93 acres, is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for water, sewer and drainage improvements. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves and four off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street. This plat proposes the platting of 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. Since this site is located within the noise impact area of McConnell Air Force Base, a Restrictive Covenant and Avigational Easement has been submitted. A Letter of credit has been submitted to guarantee paving of a private street.

The Planning Commission has approved the plat, subject to conditions.

Ensure Efficient Infrastructure.

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

Motion--  
--carried

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

### RESOLUTION NO. 08-272

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Water Distribution System Number 448-90391 (north of 13th, west of Webb), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

### RESOLUTION NO. 08-273

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Lateral 57, Main 24, War Industries Sewer (north of 13th, west of Webb) 468-84519, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

### RESOLUTION NO. 08-274

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Sewer No. 644 (north of 13th, west of Webb) 468-84520, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 57

SIB2008-08

**SUB 2008-08-PLAT OF TERRADYNE WEST SECOND ADDITION LOCATED ON THE NORTH SIDE OF CENTRAL AND WEST OF 159TH STREET EAST. (DISTRICT II)**

Agenda Item No. 21.

**Staff Recommendation:** Approve the plat.

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

This site, consisting of 11 lots on 7.53 acres, is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

Water services are available to serve the site. The sewer extension will be handled as a private project. Since this is a replat of a previous addition involved with the ownership and maintenance of reserves, a Restrictive Covenant has been submitted to provide for this addition to continue sharing in the ownership and maintenance responsibilities of the previously platted reserves. A Consent and Ratification document has also been submitted.

This plat has been reviewed and approved by the Wichita Metropolitan Area Planning Commission, subject to conditions.

Ensure Efficient Infrastructure.

The Restrictive Covenant and Consent and Ratification document will be recorded with the Register of Deeds.

Motion--

Brewer moved that the documents and plat be approved and the necessary signatures.

SUB2007-41

**SUB 2007-41-PLAT OF SIERRA HILLS SECOND ADDITION, LOCATED WEST OF 143RD STREET EAST AND ON THE NORTH SIDE OF PAWNEE. (DISTRICT II)**

Agenda Item No. 22.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This site, consisting of 111 lots on 53.03 acres, has recently been annexed into Wichita's city limits and is zoned SF-5 Single-family Residential.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for paving, sewer, water, drainage and left-turn lane improvements. A Restrictive Covenant has been submitted to provide for ownership and maintenance of the reserves. A Restrictive Covenant has also been submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

Ensure Efficient Infrastructure.

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

Motion--

Brewer moved to approve the documents and plat, authorize the necessary signatures and adopt the Resolutions. Motion carried 7 to 0.

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 58

## RESOLUTION NO. 08-275

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Water Distribution Number 448-90388 (north of Pawnee, west of 143rd St. East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-276

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Water Distribution Number 448-90389 (north of Pawnee, west of 143rd St. East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-277

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Water Distribution Number 448-90390 (north of Pawnee, west of 143rd St. East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-278

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Lateral 2, Main 21, Four Mile Creek Sewer (north of Pawnee, west of 143rd St. East) 468-84516, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-279

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Lateral 3, Main 21, Four Mile Creek Sewer (north of Pawnee, west of 143rd St. East) 468-84517, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-280

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Storm Water Drain No. 349 (north of Pawnee, west of 143rd St. East) 468-84518, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-281

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of pavement on Mt. Vernon/Ironstone from the west line of Sierra Hills Second Addition to the north line of Pawnee; Mt. Vernon from the east line of Ironstone to the east line of Sierra Hills Second Addition; Ironstone Court from the west line of Ironstone to the west line of Lot 23, Block 5; Willowgreen from the east line of Lot 23, Block 3 (north of Pawnee, west of 143rd St. East) 472-84730, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 59

City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-282

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of pavement on Ironstone Court from the west line of Lot 23, Block 5 through and including the cul-de-sac; Willowgreen/Willowgreen Cir. from the east line of Lot 23, Block 3 through and including the cul-de-sac; Willowgreen Court (Lots 7 through 20, Block 3) from the north line of Willowgreen to and including the cul-de-sac; Spring Hollow from the north line of Willowgreen to the north line of Sierra Hills Second Addition (north of Pawnee, west of 143rd St. East) 472-84731, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-283

Resolution of findings of advisability and Resolution authorizing construction of authorizing constructing an eastbound left turn lane on Pawnee, serving the entrance of Sierra Hills Second Addition (north of Pawnee, west of 143rd St. East) 472-84732, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

DED2008-03

### **DED 2008-03-PARTIAL DEDICATION OF ABUTTER'S ACCESS RIGHTS LOCATED EAST OF BROADWAY AND NORTH OF KELLOGG. (DISTRICT I)**

Agenda Item No. 23.

Staff Recommendation: Accept the Dedication.

This Dedication is associated with Lot Split Case No. SUB 2008-32 (N.A. English's 4th Addition). The Dedication is for access control along Washington Avenue, except for one opening.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Dedication will be recorded with the Register of Deeds.

Motion--carried

Brewer moved that the City Council accept the Dedication. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 60

## AIRPORT AGENDA

Motion-- Brewer moved that Airport Consent items 25 through 27 be approved in accordance with the  
--carried recommended action shown thereon.

### (ITEM 24)

#### TERMINAL APRON

#### TERMINAL AREA REDEVELOPMENT PROGRAM - TERMINAL APRON PHASE I.

John Oswald Airport Engineering & Planning Manager reviewed the item.

Agenda Item No. 24.

On August 13, 2002, the Wichita Airport Authority approved a study of the terminal area at Mid-Continent Airport. That study, conducted by HNTB, was presented to the Wichita Airport Authority on October 12, 2004 and recommended the construction of a new passenger terminal building. The Wichita Airport Authority voted 7-0 to support the study recommendations, and to move forward with a program to develop plans for a new terminal. HNTB and DMJM Aviation were selected and retained for design and program manager services, respectively.

The Terminal Area Redevelopment Program (TARP) is identified in the Airport Capital Improvement Program (CIP). The next step is to reconstruct the Apron, Phase I. This will allow the Airport to take advantage of FAA grant funding and provide a construction staging area for later phases of the project. For the Airport to make the most advantageous use of FAA funding, entitlement grant money must be applied to the consultant services before discretionary grant funding will be available for the apron reconstruction.

The Phase I Apron will be funded with a combination of entitlement and discretionary grants and Passenger Facility Charges (PFC) to be applied toward consultant fees and reconstruction. Due to an abbreviated federal funding cycle this year, and in order to be eligible for this discretionary funding, the grant application process must be completed no later than early June. To optimize grant funding between the available discretionary and entitlement funds, two grant applications have been developed by Airport staff. The application for discretionary funding is for the construction of the Apron Phase I at \$5,755,865.00; and the entitlement application is for consultant services in the amount of \$8,015,144.00. The Airport's matching portion of 5% will be funded with PFC and General Obligation bonds paid for with Airport Revenue, the exact proportion to be determined. The current project budget of \$17,464,572.00 was established in 2006 to cover contracts, such as, program management, environmental assessments, control tower shadow studies, independent cost estimating services and the design services. The construction bid for the Apron, Phase I is \$5,823,625.45, and a construction related services contract with HNTB is anticipated shortly. Therefore, a \$7,000,000.00 budget increase is requested at this time which will create a total capital budget of \$24,464,572.00.

The Airport's contribution to the economic vitality of Wichita is promoted through the Terminal Area Redevelopment Program and the continued acceptance of grant funding.

Motion-- Skelton moved that the Wichita Airport Authority approve the capital project budget increase  
--carried and authorize the Director of Airports to sign all the documents related to the grants. Motion carried  
7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 61

**LEASE ASSIGNMENT CONSENT TO ASSIGNMENT OF LEASE - FROM HAWKER BEECHCRAFT SERVICES, INC. TO SIGNATURE FLIGHT SUPPORT CORPORATION.**

Agenda Item No. 25.

Hawker Beechcraft Services, Inc. (HBS) has agreed to sell its fuel and line assets to Signature Flight Support Corporation (SFS), the world's largest FBO network with over 75 locations worldwide. All current HBS line employees will be transferred to SFS. HBS will retain its aircraft maintenance operation in space subleased from SFS. To facilitate this transaction, HBS is requesting approval to assign its primary lease to SFS. These transactions have been reviewed by airport staff to ascertain they comply with the draft minimum standards for Mid-Continent Airport. In addition, the changes were presented to the Wichita Airport Advisory Board at its May 5, 2008 meeting, and were unanimously approved by the Board.

As a result of wanting to align more directly with the needs of its parent Company's (Hawker Beechcraft Corporation) customers, HBS has elected to focus on its core business, that of providing service and support for Hawker Beechcraft products. The sale of its fuel and line business and the assignment of its leasehold interest will provide HBS the resources to provide a higher level of customer support. Two great brand names will now occupy the leasehold at Mid-Continent Airport, Signature Flight Support and Hawker Beechcraft Services.

There is no financial impact to the Wichita Airport Authority.

The Airport's contribution to the economic vitality of Wichita is promoted through approving changes to lease agreements which allow tenants to do business on the airport in the most effective way possible, thereby improving services to their customers. The addition of Signature Flight Support as a tenant, with its already wide distribution of locations, can serve as a bridge for exposure of their customers at other operations to utilize Mid-Continent Airport.

The Consent to Assignment of Lease has been approved by the Law Department as to form.

Motion--  
--carried

Brewer moved that the Wichita Airport Authority approve the Consent to Assignment of Lease, and authorize the necessary signatures. Motion carried 7 to 0.

**BUDGET TRANSFER BUDGET TRANSFER - AIRFIELD JOINT RESEAL.**

Agenda Item No. 26.

The Adopted 2008 Airport operating budget includes \$150,000 for contracted joint sealing on airside pavements at Mid-Continent. This amount is budgeted every other year and the pavement maintenance plan expected the 2010 budget to be used at Jabara. Joint sealing is a necessary pavement maintenance activity that must be accomplished on an on-going basis to prevent premature pavement failure.

The airfield at Jabara will be closed to nighttime operations for approximately 45 days this summer due to an airfield electrical project which is receiving federal funding. In order to leverage the benefits from having a closed airfield at night and to prevent an additional future closure, the recommendation is to accomplish the Jabara joint sealing during this time. The joint seal project originally planned for Mid-Continent will be deferred until 2010 without a significant adverse impact.

Transferring the \$150,000 joint seal budget from Mid-Continent to Jabara has a \$0 net effect on the Airport operating budget.

The Airport's contribution to the economic vitality of Wichita is promoted through appropriate maintenance of the capital asset.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 62

The Airport budget is not subject to certification with the State of Kansas.

Motion--

Brewer moved that the Wichita Airport Authority approve a budget transfer that increases the Jabara pavement maintenance budget by \$150,000 in 2008 with an offsetting reduction in the Mid-Continent budget. Motion carried 7 to 0.

--carried

SA NO. 1.

## **FLIGHTSAFETY INTERNATIONAL - SUPPLEMENTAL AGREEMENT NO. 1.**

Agenda Item No. 27.

In 1975, FlightSafety International (FSI) entered into a lease agreement with the Wichita Airport Authority for the construction of a facility at 1951 Airport Road. In 1980, this lease was incorporated into a bond lease which also provided for the construction of two additional facilities located at 1851 Airport Road and 2 Learjet Way. In 1990, the bonds were refunded, and a new lease agreement was entered into through 2001. This agreement was superseded by an agreement entered into in December 2001 for the three facilities, which also included five, five-year renewal options through 2031.

The current waiting period for Lear 45 initial pilot training is approximately one year due to insufficient training capacity. FSI is desirous of constructing a \$1.1 Million, 6,200 sq. ft. expansion to their existing facility located at 2 Learjet Way to add another training location to help reduce this waiting period. The expansion will include space for one large simulator bay to house the newest, state-of-the-art Lear 45XR simulator with electric motion base and associated computer systems; two, 10-person computerized Matrix classrooms; an instructor's office; rooms for two graphical flight simulators; two simulator de-briefing rooms; a storage room and restroom. Also, additional parking will be added.

The current agreement includes an option to lease 40,000 sq. ft. of land, which is identified as Tract 2 of 2 Learjet Way, and represents the area in which the expansion is planned.

Flight Safety will finance the \$1.1 Million construction cost of the expansion, which will be amortized over a 20-year period. During the 20-year period, FSI will pay land rent to the WAA. As set out in the agreement, land rent is established at the rate of \$.065/sq. ft. through April 2010. A ½ cent increase is established for each succeeding five-year period. Land rent payable to the WAA during the first year is \$2,600. At the end of the 20-year period, the facility will be appraised and a rental rate reflecting fair market rental value will be assessed to FSI.

The Airport's contribution to the economic vitality of Wichita is promoted through facilitating expansions which improve services to users of the airport and increase the assets of the WAA, thereby allowing the Airport to continue its operation on a self-sustaining basis. Further, this expansion will result in the creation of eight additional instructor positions and will bring up to 20 pilots per week into the City of Wichita, which will result a positive economic impact to the community.

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

Motion--

Brewer moved that the Wichita Airport Authority approve the Supplemental Agreement, and authorize the necessary signatures. Motion carried 7 to 0.

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 63

## COUNCIL MEMBER AGENDA

**TRAVEL EXPEND.      TRAVEL APPROVAL FOR MAYOR BREWER TO ATTEND THE LKM GOVERNING BODY MEETING, COFFEEVILLE, KANSAS, ON JUNE 12-13, 2008.**

Motion--carried      Fearey moved that the travel expenditures be approved. Motion carried 7 to 0.

**TRAVEL EXPEND.      TRAVEL APPROVAL FOR MAYOR BREWER TO ATTEND THE 76TH ANNUAL UNITED STATES CONFERENCE OF MAYORS CONFERENCE, MIAMI, FLORIDA ON JUNE 20-25, 2008.**

Motion--carried      Schlapp moved that the travel expenditures be approved. Motion carried 7 to 0.

**TRAVEL EXPEND.      TRAVEL APPROVAL FOR MAYOR BREWER AND VICE MAYOR SCHLAPP'S TRIP TO SUNRISE, FLORIDA ON MAY 20<sup>TH</sup> AND 21<sup>ST</sup>.**

Motion--carried      Longwell moved that the travel expenditures be approved. Motion carried 7 to 0.

## COUNCIL MEMBER APPOINTMENTS

Mayor Brewer      Mayor Brewer requested that Cynthia Martinez be appointed to the Mayor's Youth Council Advisory Committee.

Council Member Skelton      Council Member Skelton requested that Elaina Ingle be appointed to the Mayor's Youth Council Advisory Committee.

Motion--carried      Brewer moved that the appointments be approved. Motion carried 7 to 0.

## CONSENT AGENDA

Council Member Skelton      Council Member Skelton requested that item 43 be pulled for discussion.

Council Member Williams      Council Member Williams requested that item 47b, be pulled for discussion.

Motion--  
--carried      Brewer moved that Consent items 32 through 47b, be approved in accordance with the recommended action shown thereon, excluding items 43 and 47b. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 64

BOARD OF BIDS

## REPORT OF BOARD OF BIDS AND CONTRACTS DATED JUNE 2, 2008

Bids were opened May 23 & 30th, 2008, pursuant to advertisements published on:

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

2008 Sanitary Sewer Reconstruction Phase 5 east of Broadway, north of 2nd Street (468-84513/620510/668629) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Wichita Excavation - \$90,585.00

Water Distribution System, Phase 2 to serve Silverton Addition north of 13th Street North, west of 135th Street West (448-90239/735413/470086) (District VI) Water Distribution System, Phase 3 to serve Silverton Addition north of 13th Street North, west of 135th Street West (448-90240/735414/470087) Does not affect existing traffic. (District V)

Utilities Plus- \$65,344.45 Group 1  
\$63,292.70 Group 2  
\$128,637.15 Total Aggregate Bid

2008 Contract Maintenance Bridgedeck Repairs Amidon over the Big Arkansas and Arkansas over the Big Ditch (472-84665/132721/) Traffic shall be maintained during construction using flagpersons and barricades. (District VI)

Progressive Contractors\* - \$149,800.00

\*Contract awarded for base bid

Lead Services Replacement West, Ph 2 north of MacArthur, east of Broadway (448-90387/636186/777577) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,III,IV)

Utilities Plus - \$155,125.00

26th Street North from the west line of Lot 1, Block 1, Power CDC Third Addition, to and including the intersection of 26th Street North and Madison Avenue; the west half of Madison Avenue, from 26th Street North to the north line of Lot 14, Block 1, Power CDC Third Addition; Piatt Circle, from the north line of 26th Street North to and including the cul-de-sac; sidewalk on one side of Third Addition to Madison Avenue 26th Street North, from the west line of Lot 1, Block 1, Power CDC Third Addition to Madison Avenue to serve Power CDC 3rd Addition north of 26th Street North, west of Grove (472-83774/766171/490189) Traffic to be maintained during construction using flagpersons and barricades. (District I)

Kansas Paving Company - \$322,059.48

Water Distribution System to serve Edge Water Addition (south of 45th Street North, west of Hoover) (448-90311/735392/470065) Does not affect existing traffic. (District VI)

Nowak Construction - \$640,132.30

10th Street from the east line of St. Paul to the west line of Edwards to serve Park Vista Addition; south of 13th, west of McLean(472-84454/766117/490134) Traffic to be maintained during construction using flag persons and barricades. (District VI)

Lafarge North America - \$127,830.25 Base Bid  
\$230.00 Add Alternate  
\$128,060.25 Total Aggregate

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 65

2007-2008 CIP Wheelchair Ramp and Sidewalk - Phase 2 N/A; east of 159th Street West, north of 71st Street South (472-84604/706971/207437) Traffic to be maintained during construction using flag persons and barricades. (District I, II, III, IV, V & VI)

PPJ Construction\* - \$202,570.00

\*Engineer's Estimate

Lateral 11, Main 26 War Industries Sewer to serve Regency Lakes Commercial 2nd Addition; north of 21st Street North, west of Greenwich (468-84509/744284/480973) Does not affect existing traffic. (District II)

Dondlinger & Sons - \$22,403.00

Water Distribution System to serve Woodland North Addition; east of Hood, south of 29th Street North (448-90359/735420/470093) Does not affect existing traffic. (District VI)

Utilities Plus - \$15,147.50

Lateral 152, Main 4, Sanitary Sewer #23 to serve Woodland North Addition; east of Hood, south of 29th Street North (468-84479/744282/480971) Does not affect existing traffic. (District VI)

Mies Construction - \$12,410.00

Water Distribution System to serve Hunter Health Clinic 2nd Addition; north of Central, east of Hydraulic (448-90291/735403/470076) Traffic to be maintained during construction using flag persons & barricades. (District I)

Dondlinger and Sons - \$14,695.00

Motion--

Brewer moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate, and the necessary signatures be authorized.

--carried

Motion carried 7 to 0.

PUBLIC WORKS DEPARTMENT/FLEET MAINTENANCE: Dump Truck and Contractor Body Truck.

Kansas Truck Center North - \$151,280.00 Base Bid Group 1

\$ 440.00 Group 1 Option 1

\$ 350.00 Group 1 Option 2

\$ 125.00 Group 1 Option 3

\$ 600.00 Group 1 Option 4

\$ 28,433.00 Group 1 Option 5

<\$ 36,000.00> Group 1 Option 6 - Deduct

\$ 72,610.00 Base Bid Group 2

\$ 380.00 Group 2 Option 1

<\$ 2,500.00>Group 2 Option 2 - Deduct

WATER UTILITIES DEPARTMENT/WATER DISTRIBUTION DIVISION: Rubber tired Tractor Loader/backhoe.

Wichita Tractor Company -\$190668.00 Alternate Base Bid

Included - Option 1

Included - Option 2

\$5,985.00 Option 3

\$2,340.00 Option 4

Included - Option 5

Included - Option 6

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 66

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Municipal Court Judges Chambers Remodel.

Caro Construction - \$ 23,600

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES: 1 Lump Sum – Remodel of 8<sup>th</sup> Floor Building Services, work stations and modular to include deliver, installation and labor costs.

John A. Marshall\* - \$69,794.77

\*Purchases utilizing Government Entities Contracts,  
Cooperative Contracts and Agreements - Ordinance No. 38-122 Section 2.64.020 (j).

Motion--  
--carried

Brewer moved the contracts be awarded as outlined above, same being the lowest and 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>2008</u>	<u>(Consumption off Premises)</u>
Morrie J. Soderberg	Lighthouse Properties	1550 North Waterfront Parkway

Motion--carried

Brewer moved to approve licenses subject to Staff review and approval. Motion carried 7 to 0.

**PRELIM EST.**

## PRELIMINARY ESTIMATES:

- a. 2008 Sanitary Sewer Reconstruction, Phase 4 (various locations south of Central, east of West Street) (468-84511/620508/668627) Traffic to be maintained during construction using flagpersons & barricades. (District III, IV, VI) - \$455,000.00
- b. Grand Mere Court adjacent to Lots 9 through 12, Block 1 to serve Belle Terre South 2nd Addition (north of Kellogg, west of 159th Street East) (472-84502/766135/744222/ 490153/480910) Traffic to be maintained during construction using flagpersons & barricades. (District II) - \$50,700.00
- c. Water Distribution System to serve Cambria Addition (east of 143rd Street East, north of Pawnee) (448-90361/735405/470078) Traffic to be maintained during construction using flagpersons & barricades. (District II) - \$122,000.00
- d. Lateral 18, District D, Sanitary Sewer #12 to serve Hunter Health Clinic 2nd Addition (north of Central, east of Hydraulic) (468-84350/744270/480959) Traffic to be maintained during construction using flagpersons & barricades. (District I) - \$73,000.00
- e. Lateral 151, Main 4, Sanitary Sewer #23 to serve Brodbeck Addition (west of Arkansas, north of 29th Street North) (468-84451/744266/480955) Traffic to be maintained during construction using flagpersons & barricades. (District VI) - \$49,950.00
- f. 2008 Contract Maintenance Concrete Repairs Phase 1 Arterials (north of 31st Street South, east of Broadway) (472-84721/132721/620799/133116/) Traffic to be maintained during construction using flagpersons & barricades. (District I,III) - \$560,000.00
- g. Storm Water Drain #345 to serve Cambria Addition (north of Pawnee, east of 143rd Street East) (468-84481/751466/485357) Does not affect existing traffic. (District II) - \$575,000.00
- h. The cost of construction of Storm Water Drain No. 290 to serve Fox Ridge Addition (north of 29th Street North, east of Maize). (District V) (468-84151/751431/485-322) – Total Estimated Cost \$540,560.00
- i. The cost of construction of North Sanitary Sewer Pump Station and Main 15, Sanitary Sewer 23 (along Meridian from south of 53rd Street North to 61st Street North). (District VI) (468-83682/744009/480-697) – Total Estimated Cost \$3,217,500.00
- j. The cost of construction of Storm Water Drain No. 621 to serve Pawnee Mesa Addition (north of Pawnee, east of 119th Street West). (District IV) (468-84152/751419/485-310) – Total Estimated Cost \$108,900.00

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 67

- k. The cost of Improvement Program at 105 South Broadway (southwest corner of Douglas and Broadway). (472-84411/766019/491-020) (District I). – Total Estimated Cost \$603,100.00
- l. The cost of construction of Storm Water Drain No. 254 to serve North Ridge Village Addition (north of 37th Street North, west of Ridge). (District V) (468-83978/751403/485-294) – Total Estimated Cost \$241,020.00
- m. The cost of construction of Storm Water Drain No. 301 to serve Southwest Passage Addition (south of Pawnee, west of 119th Street West). (District IV) (468-84230/751434/485-325) – Total Estimated Cost \$165,900.00
- n. The cost of construction of Storm Water Drain No. 308 to serve Northgate Addition (north of 53rd Street North, west of Meridian). (District V) (468-84254/751437/485-328 - Total Estimated Cost \$939,300.00

Motion--carried

Brewer moved to receive and file. Motion carried 7 to 0.

## PETITION

### **CONSTRUCT PUBLIC IMPROVEMENTS IN PARKSTONE ADDITION, NORTH OF DOUGLAS, EAST OF HILLSIDE. (DISTRICT II)**

Agenda Item No. 35a.

On February 6, 2007, the City Council approved Tax Increment Financing (TIF) to develop a residential/commercial area on the north side of Douglas, east of Hillside. On March 18, 2008, the City Council approved a petition to construct streets, parking lots, decorative street entrances and ornamental street lights in the development. At that time the improvement district description was based on the existing lots and blocks. The area has since been replatted as Parkstone Addition. A Petition has been prepared to update the improvement district description. Under the terms of the TIF agreement, the City is the current owner of the property in the improvement district. Title will be transferred to the development company when they begin their construction.

When completed, the development will consist of a high-rise condominium tower, parking garage, two story townhouse residences and small commercial shops. Victor and Rutan Streets will remain as public streets through the area.

The project budget is unaffected

This project addresses the Efficient Infrastructure goal by providing for the construction of public improvements for a new development.

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. The City of Wichita is currently the record owner of the property in the improvement district.

Motion--  
--carried

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

### RESOLUTION NO. 08-284

Resolution of findings of advisability and Resolution authorizing construction of authorizing constructing pavement and other associated improvements on Victor from Hillside Avenue to the east line of Parkstone Addition and Rutan from Douglas to First Street and parking on the south side of First Street from the west line of Parkstone Addition to the east line of Parkstone Addition (north of Douglas, east of Hillside) 472-84571, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 68

## PETITION

### PAVE GOVERNEOUR AND OSIE CIRCLE SOUTH OF HARRY. (DISTRICT III)

Agenda Item No. 35b.

On August 1, 2006, the City Council approved a Petition to pave Gouverneur and Osie south of Harry. One of the tracts in the improvement district is owned by the City of Wichita and represents 74.6% of the area. It has since been determined that the fractional assessments contained in the petition were in error. A new petition has been prepared to correct the error.

The project provides paved access to a developed commercial area located south of Harry, west of Rock. The City owned tract is the site of a water booster station.

The Petition budget is unchanged. The assessment to non City owned lots is unchanged. Although the City's share of the project increases from 75% to 81%, the actual City cost is reduced from \$212,065 to \$172,044 due to favorable construction bids. The funding source for the City share is the Water Utility.

This project will address the Efficient Infrastructure goal by providing paving improvements for commercial development.

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--

Brewer moved that the new Petition be approved; the Mayor authorized to sign the petition on behalf of the City of Wichita; the Resolution adopted; and the necessary signatures authorized. Motion carried 7 to 0.

--carried

### RESOLUTION NO. 08-285

Resolution of findings of advisability and Resolution authorizing construction of authorizing constructing pavement on Gouverneur from the south line of Harry to the south live of Osie Cir., and on Osie Cir. from the east line of Gouverneur to the cul-de-sac (south of Harry, west of Rock) 472-84428, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## PETITION

### CONSTRUCT SANITARY SEWER, DRAINAGE AND WATER SYSTEM IMPROVEMENTS FOR WATERFRONT RESIDENTIAL AND GREENWICH OFFICE PARK ADDITIONS, NORTH OF 13TH STREET, WEST OF GREENWICH. (DISTRICT II)

Agenda Item No. 35c.

On November 6, 2007 and February 5, 2008, the City Council approved petitions to construct sanitary sewer, drainage and water system improvements in Waterfront Residential and Greenwich Office Park Additions. The developers have submitted new petitions that adjust the fractional assessments to reflect current marketing conditions. The Petitions have been signed by five owners representing 100% of the improvement districts.

The projects provide sanitary sewer, drainage and water system improvements for new residential and commercial development located north of 13th, west of Greenwich.

The budgets are unchanged.

This project addresses the Efficient Infrastructure goal by providing public improvements required for new residential and commercial development.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 69

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

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

## RESOLUTION NO. 08-286

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution Number 448-90329 (north of 13th, west of Greenwich) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-287

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Water Distribution System Number 448-90342 (north of 13th, west of Greenwich), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-288

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Drain No. 334 (north of 13th, west of Greenwich) 468-84409, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-289

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Lateral 54, Main 24, War Industries Sewer (north of 13th, west of Greenwich) 468-84422, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-290

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Sewer No. 638 (north of 13th, west of Greenwich) 468-84423, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## RESOLUTION NO. 08-291

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Sewer No. 635 (north of 13th, west of Greenwich) 468-84441, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 70

## PETITION

### RENOVATE BUILDING FACADE AT 1716 EAST DOUGLAS, NORTH OF DOUGLAS, EAST OF HYDRAULIC. (DISTRICT I)

Agenda Item No. 35d.

On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics for buildings along Douglas, between Seneca and Washington, and provide an incentive for businesses to improve their property. On August 1, 2006, the City Council expanded the program boundaries to include the Downtown Self Supporting Municipal Improvement District and other areas. Up to two facades per building can be improved with 25% of the cost up to \$15,000 per facade in the form of a forgivable loan. Mid-block buildings are limited to \$10,000 and one facade. The owners of a building located on the north side of Douglas, between Hydraulic and Kansas Street have submitted the required Petition. The signatures on the Petition represent 100% of the improvement district.

The project has received approval of the Design Council. The building location does not require approval of the Design Review Committee of the Historic Preservation Board.

The existing building is a two story commercial building. The facade project will install a new exterior finish, awnings and lighting. Windows and doors will be repaired/replaced as needed.

The project budget is \$31,500 with \$23,625 paid by special assessments and \$7,875 as a forgivable loan. The City Council has allocated \$761,000 for the forgivable loan component of the Facade Program. With the approval of this project, \$420,393 will be available for future projects.

This project addresses the Vibrant Neighborhood goal by facilitating improvements to a privately owned building in the facade improvement program area.

State Statutes provide the City Council authority to use special assessment funding for the project.

Motion--  
--carried

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

### RESOLUTION NO. 08-292

Resolution of findings of advisability and Resolution authorizing construction of authorizing constructing improvements to area walls on public ways or land abutting public ways consisting of facade improvements to the portion of 1716 East Douglas that abuts public ways at Douglas Avenue (north of Douglas, east of Hydraulic) 472-84724, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 71

## PETITION

### STORM WATER DRAIN IN CEDAR VIEW VILLAGE ADDITION, EAST OF GREENWICH, SOUTH OF KELLOGG. (DISTRICT II)

Agenda Item No. 35e.

On December 4, 2007, the City Council approved a petition to construct a storm water drain in Cedar View Village Addition. Based on recent bid prices, the existing Petition does not have sufficient budget to award a construction contract. The developer has submitted a new Petition to increase the project budget. The signature on the Petition represents 100% of the improvement district.

The project will provide drainage improvements for a new residential development located east of Greenwich, south of Kellogg.

The existing Petition totals \$58,000. The new Petition totals \$183,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing drainage improvements required for a new residential development.

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

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

### RESOLUTION NO. 08-293

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Drain No. 343 (east of Greenwich, south of Kellogg) 468-84463, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## PETITION

### ZELTA PAVING, FROM KELLOGG TO WATERMAN. (DISTRICT II)

Agenda Item No. 35f.

On November 1, 2005, the City Council approved a Petition to pave Zelta, from Kellogg to Waterman. The estimated project cost was \$185,000. Local Sales Tax funding in the amount of \$50,000 was also added to the project as an estimate for a freeway connection to the future Kellogg project based on preliminary concepts from 1999. Final plans for the East Kellogg freeway currently being developed identified a much larger scope of work necessary to be done at the time to avoid having to replace new pavement when the freeway project is constructed. The project has been completed and the cost of the Freeway connection is \$135,000.

The project provides paved access to a mixed-use developed area.

The project budget contained in the Petition is \$185,000 with \$169,500 assessed to the improvement district and \$15,500 paid by General Obligation Bonds for the Zelta intersections at Lewis and Waterman. The total Local Sales Tax funding needed is \$135,000 for a total budget of \$320,000. Funding for the increased Local Sales Tax funds is available in the East Kellogg Freeway project.

This project addresses the Efficient Infrastructure goal by providing paved access to a residential and commercial area.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 72

State Statutes provide the City Council the authority to add Local Sales Tax funding to the project budget.

Motion--  
--carried

Brewer moved that the budget increase be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 7 to 0.

## RESOLUTION NO. 08-294

Resolution of findings of advisability and Resolution authorizing construction of authorizing constructing pavement on Zelta Drive from the north line of Kellogg Dr. to the south line of Waterman St. (north of Kellogg, east of Greenwich) 472-84300, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## PETITION

### **SANITARY SEWER, DRAINAGE, WATER DISTRIBUTION SYSTEMS TO SERVE PART OF COUNTRY HOLLOW ADDITION, SOUTH OF KELLOGG, EAST OF 127TH STREET EAST. (DISTRICT II)**

Agenda Item No. 35g.

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

The projects will provide sanitary sewer, drainage and water service for a new residential development located south of Kellogg, east of 127<sup>th</sup> St. East.

The Petitions total \$620,000. The funding source is special assessments except for the water distribution system, which includes \$2,700 paid by the Water Utility for oversizing the pipe to serve future development outside the improvement district.

The projects address the Efficient Infrastructure goal by providing public improvements required for new development.

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

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

## RESOLUTION NO. 08-295

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

## RESOLUTION NO. 08-296

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction of Lateral 387, Four Mile Creek Sewer (south of Kellogg, east of 127th St. East) 468-84103, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 73

## RESOLUTION NO. 08-297

Resolution of findings of advisability and Resolution authorizing construction of authorizing improving Storm Water Drain No. 281 (south of Kellogg, east of 127th St. East) 468-84114, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## PETITION

### ORNAMENTAL STREET LIGHTS ON DOUGLAS, WEST OF DELLROSE. (DISTRICT II)

Agenda Item No. 35h.

On April 15, 2008, the City Council approved a construction contract to improve the intersection of Douglas and Oliver. A part of the work is the installation of ornamental street lights at the request of adjacent businesses. Two property owners on Douglas at Dellrose have agreed to contribute to the project with Special Assessment funding for ornamental lights adjacent to their property. They have submitted a Petition representing 100% of the improvement district.

The street lights are designed to reflect the character of the College Hill business community.

The estimated project cost of \$11,250 with the total paid by Special Assessments.

This project addresses the Efficient Infrastructure goal by improving an important arterial intersection.

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

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

## RESOLUTION NO. 08-298

Resolution of findings of advisability and Resolution authorizing construction of authorizing construction to install period streetlighting along Douglas from Dellrose to approximately half a block west of Dellrose (Douglas and Oliver intersection) 472-84729, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## KDHE

### RENEWAL OF FOOD SERVICE ESTABLISHMENT INSPECTION CONTRACT WITH KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT.

Agenda Item No. 36a.

The Environmental Services Department has conducted inspections of food service establishments within City of Wichita and all jurisdictions of Sedgwick County on behalf of the KDHE for over twenty-seven years. Local staff enforces state regulations and utilizes state enforcement mechanisms as appropriate. KDHE remits eighty percent of license revenue (as established by Kansas statute) to the City and provides enforcement assistance and training for local staff. KDHE has proposed renewal of this contract for state fiscal year 2009 (July 1, 2008 through June 30, 2009.)

Contract inspections by local entities reduce duplication of effort, provide a single source of contact for industry and citizens, and contribute substantially to local food protection budgets. Use of KDHE regulations and enforcement procedures promotes consistency with other jurisdictions within the state.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 74

Staff estimates the value of the KDHE contract at approximately \$328,000, representing the major funding source for food protection activities. Kansas Department of Agriculture (KDA) provides funding for inspections of food service establishments located in retail food stores and staff estimates the value of this contract at \$50,000. Additionally, the Food Protection Section conducts other City programs and receives approximately \$86,000 for these services.

Due to Kansas legislation, all state responsibilities for administering the Food Safety Program will shift from KDHE to KDA effective October of 2008. Contract agreements will not be affected by this shift for SFY2009.

The Department of Law has reviewed the contract, and approved it as to form.

Motion--  
--carried

Brewer moved that the contract with the Kansas Department of Health and Environment be approved and the appropriate signatures be approved. Motion carried 7 to 0.

## CEDAR VIEW

### **AGREEMENT TO RESPREAD ASSESSMENTS: CEDAR VIEW VILLAGE ADDITION, NORTH OF LINCOLN STREET, EAST OF GREENWICH ROAD. (DISTRICT II)**

Agenda Item No. 36b.

The landowner, Woodland Wichita, LLC, platted Cedar View Village Addition and has submitted an Agreement to respread special assessments within the Addition.

The land was originally included in an improvement district for paving, sanitary sewer, storm water sewer, and water distribution system projects. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

There is no cost to the City.

The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

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

Motion--  
--carried

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

## DESIGN AGRMNT

### **DESIGN AGREEMENT CLARIFICATION: KELLOGG FROM CYPRESS TO 159TH STREET EAST. (DISTRICT II)**

Agenda Item No. 37a.

The 2007-2016 Capital Improvement Program includes funding to design East Kellogg improvements. On December 4, 2007, the City Council approved design agreements with PB Americas, Inc. to prepare construction plans for a Kellogg freeway from Cypress to 127th St. East and design concepts from 127<sup>th</sup> St. East to 159<sup>th</sup> St. East. That contract requires that the consultant work with the Design Council and artists to come up with visual enhancements for the City to consider. At that time it was anticipated that the agreement would be clarified at a later date with respect to the role of the artists and ownership of the art elements to be incorporated into the project. An agreement clarification has been prepared that provides the City with control of the use and reuse of the visual enhancement elements on the project.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 75

The project is part of an ongoing effort to upgrade East Kellogg to a freeway standard to the Butler County line.

The design budgets are unaffected.

This project addresses the Efficient Infrastructure goal by providing a safe and efficient transportation system. It addresses the Economic and Affordable Living goal by providing a public improvement which reduces the cost of transportation. It also improves the air quality of the region whereby the goal of a Safe and Secure Community is met by improving environmental health.

The agreement clarifications have been approved as to form by the Law Department.

Motion--  
--carried

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

## CHANGE ORDER

### WATER LINE REPLACEMENT IN ANDERSON ADDITION, EAST OF MERIDIAN, NORTH OF MAPLE. (DISTRICTS IV AND VI)

Agenda Item No. 38a.

On August 7, 2007, the City Council approved a construction contract with Duling Construction, Inc. to replace a water distribution system located east of Meridian, north of Maple. A part of the project is the replacement of old water service lines to individual homes and businesses. After the work began, it was determined that the number of services that should be replaced exceeded the amount expected at the time the project was bid.

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

The total cost of the additional work is \$15,440 with the total paid by the Water Utility. The original contract amount is \$654,638. This Change Order represents 2.36% of the original contract amount.

This project addresses the Efficient Infrastructure goal by providing ongoing maintenance of the City's water distribution system.

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.

Motion--  
--carried

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

## CHANGE ORDER

### CENTRAL CORRIDOR RAILROAD IMPROVEMENT. (DISTRICT VI)

Agenda Item No. 38b.

On March 8, 2005, the City Council approved a construction contract with Dondlinger & Sons, Inc. to construct Central Corridor Railroad Improvements. The Kansas Department of Transportation (KDOT) is planning to install a fiber optic communication line along Murdock from the I-135 Freeway to Market. They have requested that electrical conduit be installed under the Central Railroad Corridor with the total cost to be reimbursed by KDOT. Installing the conduit at this time will eliminate the need to cut the new pavement in the future.

A Change Order has been prepared for the additional work.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 76

The cost of the additional work is \$17,451, with the total paid by KDOT. The original contract amount is \$57,444,085. This Change Order plus previous Change Orders represents 02.07% of the original contract amount.

This project addresses the Efficient Infrastructure goal by improving east-west traffic flow and safety through the core area.

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.

Motion--  
--carried

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

## PROP. ACQUIS.

### PARTIAL ACQUISITION OF 2010 SOUTH BROADWAY FOR THE IMPROVEMENT OF MT. VERNON BETWEEN THE ARKANSAS RIVER AND BROADWAY. (DISTRICT III)

Agenda Item No. 39a.

On July 3, 2007 the City Council approved the improvement of Mt. Vernon between the Arkansas River and Broadway. The project will construct a large concrete box drain along Mt. Vernon from near Topeka to the Arkansas River. The existing two lane pavement will be replaced with a new two lane street with left turn lanes at the east and west approaches to Broadway. Sidewalks will be constructed on both sides of Mt. Vernon. The project will require the partial acquisition of four parcels. This acquisition consists of a 140.16 square foot parcel at the southeast corner of the intersection to allow the repositioning of a traffic control signal. There is also a 1,585.12 square foot temporary easement along the north and west sides of the convenience store located at 2010 South Broadway. .

The owners have agreed to accept the offer amount of \$1,200 consisting of \$700 (\$5.00 per square foot) for the acquisition and \$500 for the temporary easement. The City will be responsible for moving the business sign and replacing landscaping located in the acquisition area.

The funding source for the project is General Obligation Bonds. A budget of \$13,000 is requested. This includes \$1,200 for acquisition, \$8,000 to move the business sign, \$3,000 to replace landscaping and \$800 for closing costs and title insurance.

The acquisition of this parcel is necessary to ensure efficient infrastructure in the area.

The Law Department has approved the contract as to form.

Motion--carried

Brewer moved that the Budget and Easements be approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 77

## **BOARDS/COMMISS. MINUTES OF ADVISORY BOARDS/COMMISSIONS**

Wichita Employees' Retirement System, February 27, 2008  
Police and Fire Retirement System, February 27, 2008  
Wichita Employees' Retirement Board/Police & Fire Retirement Board, April 3, 2008  
District Advisory Board I, April 7, 2008  
District Advisory Board II, March 3, 2008  
District Advisory Board II, April 7, 2008  
District Advisory Board III, April 2, 2008  
District Advisory Board VI, April 7, 2008  
District Advisory Board VI, April 16, 2008  
Board of Electrical Appeals, April 22, 2008  
Wichita Public Library, April 15, 2008  
Wichita Historic Preservation Board, April 14, 2008

Motion--carried Brewer moved to receive and file. Motion carried 7 to 0.

## **EASEMENT**

### **EASEMENT ENCROACHMENT AGREEMENT. (DISTRICT I)**

Agenda Item No. 41.

The Agreement allows Fahnstock Properties, 3532 N. Comotara to occupy and construct improvements on, over, and across a 20 foot Drainage and Utility Easement in Lot 8, Comotara Industrial Park 2<sup>nd</sup> Addition hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is a building structure. The Agreement allows the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

The Easement Encroachment Agreement is necessary to ensure efficient infrastructure by maintaining the sanitary sewer system in northeast Wichita.

The Law Department has reviewed the Easement Encroachment Agreement and approved it as to form.

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

## **PROPERTY WAIVER LAWRENCE-DUMONT STADIUM REAL PROPERTY WAIVER. (DISTRICT IV)**

Agenda Item No. 42.

On August 7, 2008, the City Council approved a lease agreement between the City and WB, Inc. WB, Inc. owns the Wichita Wingnuts professional baseball team and operates the City-owned National Baseball Congress. WB, Inc. has entered into an agreement with Pinnacle Business Finance, Inc. as a part of their partnership with Total Venue Control, LLC for the provisioning of their cashless concessions system.

Pinnacle Business Finance, Inc. is asking the City of Wichita to execute a Real Property Waiver to protect its business interest in certain wireless connectivity infrastructure elements that it has attached to the stadium. Through the agreement the City would waive any title rights to this equipment that is owned by and was installed by others.

Pinnacle would be responsible for the cost of any removal of the improvements and would also be

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 78

responsible to repair any damage to the stadium resulting from such removal.

The agreement supports the efficient infrastructure goal by facilitating the maintaining public facilities indicator.

The waiver has been reviewed and approved as to form by the Law Department.

Motion--  
--carried

Brewer moved that the City Council approve the Real Property Waiver and authorize the necessary signatures. Motion carried 7 to 0.

## (ITEM 43) AIRPORT NOI

### NOTICE OF INTENT TO USE DEBT FINANCING - TERMINAL AREA REDEVELOPMENT PROGRAM - APRON PHASE I.

Agenda Item No. 43.

On June 3, 2008, the Wichita Airport Authority was asked to authorize an increase in the Terminal Area Redevelopment Program (TARP) budget to include the cost of constructing Phase I of the terminal apron along with the corresponding expected construction-related services from the design firm. The Airport Authority relies on the City of Wichita for the issuance of General Obligation bonds for capital projects.

It is necessary to declare that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Mid-Continent Airport facility. Additionally, the nature of said improvements, the estimated costs thereof and the manner of payment needs to be disclosed. The actual issuance of the bonds will require a separate authorization from the City Council.

The requested revised total budget was \$24,464,572.00 which represents the maximum cost that will be funded with General Obligation Bonds paid for with airport revenue.

The Airport's contribution to the economic vitality of Wichita is leveraged through the use of long-term financing of capital projects.

The Law Department has approved the Authorizing Resolution as to form.

Motion--  
carried 7 to 0.

Skelton moved to defer this item to the next meeting when Victor White is available. Motion

## SPIRIT IRB

### PARTIAL REDEMPTION OF INDUSTRIAL REVENUE BONDS, SPIRIT AEROSYSTEMS, INC. (District III)

Agenda Item No. 44.

On November 14, 2006, the City Council approved the issuance of Industrial Revenue Bonds (Series IV, 2006) in the amount of \$252,000,000, for the purpose of financing the acquisition, construction, equipping and furnishing of industrial facilities for Spirit AeroSystems, Inc. (Spirit). Included in the property financed by the 2006 Bonds are certain tooling equipment and certain other capital property.

On September 11, 2007, the City of Wichita approved the request of Spirit to exercise its option to purchase a portion of the Project consisting of certain tooling equipment and to redeem and pay a like amount of principal of the Series IV 2006 Bonds in order to convey the property to The Boeing Company.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 79

The City of Wichita has received notice that Spirit plans to exercise the option to purchase a second portion of the project prior to the full payment of the Bonds. The purchased portion valued at \$9,891,875 will be conveyed to The Boeing Company, and a principal amount of \$9,900,000 of the Bonds will be redeemed. The City has been advised by Bond Counsel that Spirit AeroSystems has the right to obtain release of this property.

The City has received payment of \$1,000 from Spirit as a portion of the purchase price of the project as required in the lease agreement. There is no other fiscal impact to the City through conveyance of the requested property.

Economic Vitality and Affordable Living. Efficient administration of economic incentive programs, such as IRB financing, contributes to the growth of the economy and prosperity of the community.

The City Attorney's Office has reviewed and approved the Resolution and related documents as to form.

Motion-- Brewer moved that the City Council adopt the Resolution authorizing execution of the Bill of Sale and Certificate of Redemption for the purpose of conveying ownership of the purchased property to Spirit AeroSystems in accordance with the 2006 Lease Indenture and authorize the necessary signatures.  
--carried Motion carried 7 to 0.

## RESOLUTION NO. 08-300

Resolution of the City of Wichita, Kansas, approving and authorizing the delivery of a Certificate of Redemption, Bill of Sale, and other appropriate instruments, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Skelton, Longwell, Schlapp, Williams and Brewer.

## PAYMENT

### **PAYMENT OF CONDEMNATION AWARD, CASE NO. 07CV3306, ROAD AND STORM WATER IMPROVEMENTS TO WEST STREET BETWEEN MAPLE AND CENTRAL AVENUES, PARCELS 1 AND 32. (District VI)**

Agenda Item No. 45.

The City has identified the need to acquire permanent easements for road right of way purposes from the owner and tenants of commercial use parcels near Central and West owned by Roy Schoeb & Company. Last year the City initiated eminent domain proceedings to acquire this property. On May 7, 2008, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition of parcel 1 to be \$300,000.00 and parcel 32 to be \$11,000.00. The court awarded the three appraisers fees in the total amount of \$31,500.00. Court costs are \$147.00.

In order for the city to acquire this property, it must pay the award, together with fees and costs, to the Clerk of the District Court on or before June 9, 2008.

The costs of acquiring these properties will be paid from project funds.

This action promotes the goal of Efficient Infrastructure, as it allows construction of improved storm water drainage facilities and street improvements to a heavily traveled street.

The City has until June 9, 2008, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned. In that event the City would still be responsible for the fees, costs, and would have additional liability for the attorney fees of the property owners.

Motion-- Brewer moved to authorize payment to the clerk of the District Court in the amount of \$342,647.00 for acquisition of property easements condemned in Case No. 07CV3306. Motion

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 80

--carried

carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 81

## **TECH TRAINING PROVIDING LOCAL TECHNOLOGY TRAINING AND COMPUTER-BASED TRAINING – SELECTION OF VENDORS.**

Agenda Item No. 46.

IT/IS contracts with Laser Printer vendors to provide service on the Laser Printers (excluding the Lanier Multi-function Printers). This service is necessary to keep these printers in operating condition during their life cycle.

A competitive Request for Proposal (FP700085) was issued for “Laser Printer Maintenance” and 4 responses were received. A staff screening and selection committee reviewed and evaluated the proposals based on the criteria set forth in the Request for Proposal. Therefore the committee determined that KK Office Solutions Inc. should be contracted for the Laser Printer Maintenance. The new contract will be for one year with options to renew under the same terms and conditions for two (2) additional one (1) year periods by mutual agreement of both parties.

Laser Printer Maintenance costs are within departmental operating budgets, and the annual total is expected not to exceed \$25,000.

Improve Technology Efficiencies.

The Law Department has reviewed and approved the contract as to form.

Motion--  
--carried

Brewer moved that the City Council approve the contract to KK Office Solutions Inc. and authorize the necessary signatures. Motion carried 7 to 0.

## **ORDINANCE. SECOND READING ORDINANCES: (FIRST READ MAY 20, 2008)**

- a. 31st Street South Bridge at Glenn. (District IV)

ORDINANCE NO. 47-905

An ordinance declaring the 31st street south Bridge at Glenn (472-84702) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0.

Council Member Williams Council Member Williams asked Staff to look into the wording of the streets because it is incorrect.

# CITY COUNCIL PROCEEDINGS

JOURNAL 192

JUNE 3, 2008

PAGE 82

(ITEM 47B)

- b. 2008 Street Rehabilitation Program. (Districts I and IV)

## ORDINANCE NO. 47-906

An ordinance declaring George Washington boulevard, from Bayley to Lincoln; Grove, from Lincoln to Morris; Lincoln, from Grove to the bridge over the Wichita drainage canal and K42 highway from Hoover to the I-235 freeway (2008 street rehabilitation program) 472-84725 to be main trafficways within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficways; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same. Williams moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0.

(Council Member Gray momentarily absent)

## RECESS

## EXECUTIVE SESSION

Motion--

Brewer moved that the City Council recess into Executive Session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, legal advice, personnel matters of non-elected personnel and preliminary discussions relating to the acquisition of real property for public purposes, and that the Council return from Executive Session no earlier than 3:30 p.m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 6 to 0, (Gray absent).

## RECONVENED

The Council reconvened in the City Council Chambers at 3:36 p.m.

Motion--carried

Brewer moved to extend the Executive Session until 4:00 p.m. Motion carried 4 to 0, (Fearey, Gray, and Longwell absent).

## RECONVENED

The Council reconvened in the Council Chambers at 4: 35 p.m.

Mayor Brewer

Mayor Brewer stated no action was taken and there is no action needed as a result of the Executive Session.

Motion--carried

Brewer moved to close the Executive Session. Motion carried 4 to 0, (Fearey, Longwell and Williams absent)

Motion--carried

Brewer moved that the meeting be adjourned. Motion carried 4 to 0, (Fearey, Longwell and Williams absent)

## ADJOURNMENT

The meeting was adjourned at 4:36 p.m.

Respectfully submitted,

Karen Sublett, CMC  
City Clerk