

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 114

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, October 3, 2006
Tuesday, 9:06 A.M.

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

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

Ashok Aurora, Hindu faith, gave the invocation.

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

The Minutes of the September 26, 2006 meeting were approved 6 to 0, (Skelton absent).

AWARDS AND PROCLAMATIONS

Proclamations

Proclamations:

Mayor Mayans read aloud the following Proclamations:

- Barbershop Harmony Weekend
- Fire Prevention Week
- Scleroderma Awareness Month

Awards

Emerging and Disadvantaged Business Enterprise Program Awards.

Mayor Mayans reported that he is honored this morning to recognize some companies that are the first honorees in the Emerging and Disadvantaged Business Enterprise Recognition Awards. Stated that they are being recognized for their involvement in the Emerging and Disadvantaged Business Enterprise Program. In September 2003, the City Council appointed a 15-member task force to address concerns expressed by minority business owners on purchasing practices and together the City Council Task Force and city Staff developed what is now known as Emerging and Disadvantaged Business Enterprise Policy. Stated that some results of the City Council's original actions have made a 10% increase in dollars spent with the emerging and disadvantaged business vendors and there has been 117 new minority vendor registrations working with the City of Wichita and 2.7 million dollars spent with these vendors. Stated that the staff that helped make this innovative program a reality are Melinda Walker, Shirley Rogers and Janice Briggs. Mayor stated that since this program began, a one-year review was made and statistics clearly show the participation and utilization of the emerging and disadvantaged businesses have increased and most prime contractors have cooperated in utilizing this program in their sub-contracting opportunities. Stated that there are a few prime contractors who have consistently cooperated in utilizing this program in their sub-contracting. Stated that the first annual awards of recognition are being presented to the following vendors, Parga Construction and DuBois Consultants. Mayor Mayans stated that these two emerging business enterprises have received combined contracts totaling over \$950,000.00 from July 1, 2005 to June 30, 2006. Mayor Mayans stated that there are also two prime contractors that he would like to recognize for their good work in utilizing this program, Cornejo and Sons and Dondlinger and Sons and presented Ron Cornejo and Marty Dondlinger with an award.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 115

PUBLIC AGENDA

Gene Safarik-Police under funded.

(Mr. Safarik was not present)

Loren L. Mumma-Damage to his home located at 3921 Ross Parkway, done by the City.

- Mr. Mumma Mr. Mumma stated that for six years he has been asking the City to fix his house.
- Mayor Mayans Mayor Mayans stated that he has spoken to staff who indicated to him that they have reached out to him regarding this matter.
- Mr. Mumma Mr. Mumma stated that city Staff has done nothing for him and that he was put in jail. Stated that he went over to the Community Center to talk to Police Chief Williams and he told him that he could not help him. Stated that he was escorted out by four officers and was told that if he came back over he would be arrested for trespassing.
- Gary Rebenstorf Director of Law explained that this involves a claim that Mr. Mumma had with the City, filed back in 2001 and it was an issue involving a sewer backup and it was determined that the contractor for the City was responsible and the matter was turned over to the contractor and dealt with the contractor and their insurance adjuster and they were not able to reach any type of resolution with Mr. Mumma. Stated that they did go out and do some work on the house to help with some of the issues but it was determined that whatever the damage was done that it was caused by the contractor and the contractor's lawyer and insurance company chose to make an offer to Mr. Mumma and he did not accept it. Stated that a lawyer represented Mr. Mumma at the time and now the issue has died.
- Mr. Mumma Mr. Mumma stated that he was not offered anything from the City of Wichita. Stated that he was offered something from Mark Miller Crawford and Company but nothing from the City of Wichita.
- Mayor Mayans Mayor Mayans stated that the course of action for him to pursue is against the contractor and the insurance company that apparently has made an offer to him, which was accepted. Stated that the case is settled and closed and the City is not negligent in this situation.

Lester K. McGuire-CON2006-000027 Cell tower at 29th Street and Porter.

- Mr. McGuire Mr. McGuire, 2926 Porter, stated that he brought a group with him today supporting him on this issue and asked them to stand. Stated that they do not want a cell phone tower at 29th and Porter. Stated that the neighborhood has told the City that they want the tower denied and have sent e-mails and letters to get this information out to the Council. Stated that they do not want this issue deferred because they have already been given 30 days to contact the neighborhood and they were not able to do that in 30 days and if the tower is that important to the applicant, it looks like they would have found time to contact the neighborhood and the home owners association. Stated that they do not want it returned to the MAPC either because they have already voted 11 to 1, in favor of the cell tower. Stated that there are a lot of things involved with this tower going into this area and that a 150 foot tower will be very visible to the public and would like to keep these towers from popping up.

CITY COUNCIL PROCEEDINGS

Larry T. Hart-Cell phone tower at 29th Street North and Porter Street.

Mr. Hart

Mr. Hart, 2939 Porter, stated that the proposed tower at 2939 Porter will be about 300 feet from his front yard and several other houses. Stated that over the last few years the City of Wichita has encouraged people in the older neighborhoods to keep up the houses in the neighborhoods to prevent blight and he does not feel that this tower is going in that same direction. Stated that he is concerned about the large amount of junior high boys that walk to and from school and feels that this will be a challenge for them to keep from getting into this thing and especially after it is abandoned when technology goes on. Stated that as soon as the cell tower is not used anymore and is abandoned, it will be more of a lure for people to get into. Stated that he hopes that the City and the people can come up with a plan on this issue to put enough equipment along the freeways and canal routes. Stated that he is asking the City to deny this tower at this location.

CONSENT AGENDA

Motion--
--carried

Mayans moved that Consent items 5 through 18b be approved in accordance with the recommended action shown thereon. Motion carried 6 to 0, (Skelton absent).

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED OCTOBER 2, 2006.

Bids were opened September 29, 2006, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/FLEET DEPARTMENT: Fire Squad Unit.

Rusty Eck Ford Inc. - \$155,241.00 (Total net bid)

Motion--
--carried

Mayans moved that the report be received and filed; the Contracts approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

| <u>Renewal</u> | <u>2006</u> | <u>(Consumption on Premises)</u> |
|-----------------|-------------------------------|----------------------------------|
| Wayne R. Larson | Sierra Hills Golf Club | 13420 East Pawnee |
| Dennis H. Grady | Wichita Canteen Company, Inc. | 1845 Fairmount |

| <u>Renewal</u> | <u>2006</u> | <u>(Consumption off Premises)</u> |
|----------------|--------------------------------|-----------------------------------|
| Doug Wald | Presto Convenience Stores, LLC | 7136 West Central |
| Doug Wald | Presto Convenience Stores, LLC | 7990 East Central |
| Doug Wald | Presto Convenience Stores, LLC | 1250 South Rock Road |
| Doug Wald | Presto Convenience Stores, LLC | 3311 North Rock Road |
| Doug Wald | Presto Convenience Stores, LLC | 2356 South Seneca |
| Doug Wald | Presto Convenience Stores, LLC | 1254 South Tyler |
| Doug Wald | Presto Convenience Stores, LLC | 4821 South Broadway St. |
| Doug Wald | Presto Convenience Stores, LLC | 4414 West Maple |
| Doug Wald | Presto Convenience Stores, LLC | 515 North Seneca |
| Doug Wald | Presto Convenience Stores, LLC | 2190 North Rock Road |
| Doug Wald | Presto Convenience Stores, LLC | 1350 North Oliver |
| Doug Wald | Presto Convenience Stores, LLC | 2001 South Oliver |
| Doug Wald | Presto Convenience Stores, LLC | 7236 West 21st Street |

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 117

| <u>New Operator</u> | <u>2006</u> | <u>(Consumption on Premises)</u> |
|---------------------|---------------|----------------------------------|
| Cathryn Chase | Lil Mexico* | 1601 East Pawnee |
| Sonia Cenicerros | Burrito Loco* | 1580 West 21st Street North |

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

Motion--
--carried
Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 6 to 0, (Skelton absent).

PRELIM ESTS.

PRELIMINARY ESTIMATES:

- a) Lateral 22, Main 13 Southwest Interceptor Sewer to serve an Unplatted Tract - north of Pawnee, west of Maize. (468-84110/744158/480846) Does not affect existing traffic. (District IV) - \$13,320.00
- b) Aksarben from the north line of Lot 19, Block A, north to the south line of Autumn Ridge; Autumn Ridge from the west line of the plat, east and south to the north line of Kiwi; Kiwi from the west line of Lot 7, Block E, east to the east line of the plat; Decker from the north line of Autumn Ridge north to the north line of the plat; Sidewalk on one side of Autumn Ridge, Aksarben, Kiwi and Decker to serve Copper Gate North Addition - north of 13th Street North, west of 135th Street West. (472-84105/766110/490127) Does not affect existing traffic. (District V) - \$379,440.
- c) Lateral 396 Four-Mile Creek Sewer to serve Crestlake Addition -north of Central, west of 127th Street East. (468-84182/744184/480872) Does not affect existing traffic. (District II) - \$260,000.
- d) Lateral 58, Main 3 Southwest Interceptor Sewer to serve Sycamore Pond Addition - south of 47th Street South, east of Seneca. (468-84191/744193/480881) Does not affect existing traffic. (District IV) - \$230,520.

Motion--carried
Mayans moved that the file be received. Motion carried 6 to 0, (Skelton absent).

PETITION

CONSTRUCT A WATER DISTRIBUTION SYSTEM TO SERVE LOT 11, BLOCK 4 AND LOTS 9-10, BLOCK 5, SOUTH BROADWAY GARDENS ADDITION, SOUTH OF 55TH STREET SOUTH, EAST OF BROADWAY. (DISTRICT III)

Agenda Report No. 06-0989

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

The project will provide City water service to an existing residential area located south of 55th St. South, east of Broadway.

The Petition totals \$22,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing water service for an existing residential area.

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

Motion--
--carried
Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 118

RESOLUTION NO. 06-514

A Resolution of findings of advisability and resolution authorizing construction of water distribution system number 448-90235 (south of 55th Street South, east of Broadway) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

STREET CLOSURE CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

CLAIMS REPORT ON CLAIMS ALLOWED FOR AUGUST 2006:

| <u>Name of Claimant</u> | <u>Amount</u> |
|-------------------------|---------------|
| Boyd, Lisa | \$67.68 |
| Davis, Kim | \$250.00 |
| Hayes, Kenneth | \$1,002.34** |
| Mosiman, Madeline | \$4,000.00 |
| Rassette, Angie | \$222.43 |

** Settled for lesser amount than claimed.

Motion--carried Mayans moved that the file be received. Motion carried 6 to 0, (Skelton absent).

TALKING BOOKS BLIND AND PHYSICALLY HANDICAPPED, TALKING BOOKS CONTRACT.

Agenda Report No. 06-0990

The Wichita Public Library is one of five agencies that deliver library service to blind and physically handicapped residents of Kansas through contracts with the Kansas State Library. The Wichita site delivers service to eligible customers from all of Sedgwick County and fifteen counties in Southeast Kansas. Although Wichita's participation as a contracting agency has been in place for many years, annual contracts renewing the relationship with the State Library are required because federal funds are included in the contract payment.

Wichita's ability to house a subregional library for the blind and physically handicapped allows the Library to enhance service to customers with special needs. While most users of this service must rely on toll-free phone and mail access to the library service, Wichita's customers have the added benefit of receiving walk-in service from Wichita's Central branch library. Senior centers, retirement and nursing homes, special education centers and other agencies also benefit from having subregional staff locally available to promote and/or present training about this program. The program budget was reviewed and approved by the Library Board of Directors during its September 19, 2006 meeting.

The grant includes a base payment with supplemental funds divided by the share of the statewide service delivery. No local match is required. The Wichita contract for the 2006-2007 year will be \$126,896, an increase of approximately 10% over the previous year.

The plan addresses the Quality of Life goal by enabling the Wichita Public Library system to extend access to information and recreation resources to citizens who do not have the visual or physical ability to use traditional print materials.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 119

The contract has been reviewed and approved by Law Department staff.

Motion--
--carried

Mayans moved that the 2006-2007 Talking Books Service contract be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

MAIN 4

MAIN 4, NORTHWEST INTERCEPTOR SEWER, EAST AND WEST OF 135TH STREET WEST, SOUTH OF 21ST STREET. (DISTRICT V)-SUPPLEMENTAL.

Agenda Report No. 06-0991

On November 2, 2004, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing Main 4, Northwest Interceptor Sewer. The fee was \$46,400. On June 20, 2006, the City Council approved Supplemental Agreement No. 1 because it was determined that a gas line had been installed along the project route. It was necessary to have survey crews perform additional survey and the design section make modifications to the project plans as a result of the gas line installation. The fee was \$12,039.50.

This supplemental agreement is to cover the costs of revising the project plans for the Main 4, Northwest Interceptor Sewer project. Bids for the project, based on the original project plans, were higher than the Engineer's estimate. In an effort to reduce project costs, the design consultant was requested to reduce the depth of the proposed sewer as much as possible, yet still serve the proposed drainage area. Based on the revised plans, the project was re-bid for an amount that was within the project budget.

Payment to R&B for Supplemental Agreement No. 2 will be made on a lump sum basis of \$5,516.50, and will be paid by Water Utility.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of sewer improvements for the community. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

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

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

N. INDUS CORR.

CONTRACT SERVICES FOR THE NORTH INDUSTRIAL CORRIDOR ENVIRONMENTAL REMEDIATION PROJECT-SUPPLEMENTAL AGREEMENT.

Agenda Report 06-0992

The North Industrial Corridor (NIC) site encompasses approximately 4,000 acres of commercial, industrial, and residential properties in the north central area of Wichita. The site includes three distinct areas: the 29th and Mead area (formerly a Superfund site), the 13th and Washington area and the northeast extension area. The City is required by an agreement with the Kansas Department of Health and Environment (KDHE) to cleanup identified soil and groundwater contamination sites located within the NIC area. In order to accomplish this task, the City of Wichita has contracted with Camp Dresser & McKee (CDM) to provide environmental consulting and engineering services to complete various phases of the NIC project. Over the last several years, KDHE has required significant source investigation not planned in the original contract. This work has now been completed but addition funding is needed to complete the original scope of the contract that includes the completion of the project's remedial investigation and feasibility study.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 120

The supplemental agreement (4th amendment to the contract) of a not-to-exceed amount of \$850,000 will allow the City to meet the new requirements and continue toward its site-wide remediation goals. In addition, the supplemental agreement will provide an option to extend the contract one additional time with a not-to-exceed amount of \$475,000. Total amount for this supplemental agreement contract with one additional extension is \$1,325,000.

The supplemental agreement for a not-to-exceed amount of \$850,000 is included in the current year's budget for the North Industrial Corridor Tax Increment Financing fund. The project will likely extend into the next year and possibly beyond. The additional option, if needed, will be budgeted as well and may require budget adjustment.

The North Industrial Corridor remediation project promotes a vibrant core area and enhances the quality of life.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the amendment to the agreement be accepted; the appropriate signatures authorized and the necessary budget adjustment approved. Motion carried 6 to 0, (Skelton absent).

FAIRMONT ADD.

THE FAIRMONT ADDITION, NORTH OF 21ST STREET, WEST OF 127TH STREET EAST, (DISTRICT II)

Agenda Report No. 06-0993

The City Council approved the water, sanitary sewer and paving improvements in The Fairmont Addition on August 8, 2006.

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

Payment to Baughman will be on a lump sum basis of \$44,700 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

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

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 121

SYCAMORE POND

SYCAMORE POND AND SOUTH SENECA GARDENS SECOND ADDITIONS, SOUTH OF 47TH STREET SOUTH, EAST OF SENECA. (DISTRICT IV)

Agenda Report No. 06-0994

The City Council approved the water, sanitary sewer, drainage and paving improvements in Sycamore Pond & South Seneca Gardens 2nd Additions on June 6, 2006.

The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of bond financed improvements consisting of water, sanitary sewer, drainage and paving in Sycamore Pond & South Seneca Gardens 2nd Additions. Per Administrative Regulation 1.10, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to R&B will be on a lump sum basis of \$72,400 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

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

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

PROP. ACQUIS.

PARTIAL ACQUISITION BY EMINENT DOMAIN FOR THE OLIVER AND CENTRAL INTERSECTION PROJECT. (DISTRICTS I AND II)

Agenda Report No. 06-0995

In May 2006, staff was asked to purchase the partial acquisitions of land for road right-of-way at the Oliver intersection project at Central. There are four tracts required for this project. They consist of strip acquisitions and corner clips. One corner clip is from a commercially zoned parcel at the southwest corner of the intersection. The project requires 377 square feet for right-of-way and a 2,024 square foot temporary construction easement from the property at 4729 East Central. This parcel is improved with a two-tenant retail building on an 36,590.4 square foot site. The improvements are not impacted by the project. There is a retail advertising sign in the proposed acquisition area. This will need to be relocated.

The proposed acquisition was appraised at \$2,250, or \$3.75 per square foot. This includes \$1,415 for the right-of-way and \$835 for the temporary construction easement. The advertising sign is a relocation item and the owner would be compensated to relocate the sign based on actual moving estimates. This is in addition to the \$2,250 offer. The offer to purchase was rejected and the owner countered at \$350,000. The owner feels that the improvements are impacted by the proximity of the project. Staff will continue to negotiate with the owners, but due to the construction schedule for the project, eminent domain proceedings need to be initiated.

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

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 122

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

Motion--

Mayans moved that the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition be placed on first reading; the resolution be adopted; and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

--carried

RESOLUTION NO. 06-522

A Resolution declaring the necessity for acquiring private property for the use of the City of Wichita in connection with planned Oliver intersection project at East Central. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

ORDINANCE

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of the traffic intersection at North Oliver and East Central in the City of Wichita, Sedgwick County, Kansas; designating the land required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the land therein taken and providing for payment of the cost thereof, introduced and under the rules laid over.

DEFERRED COMP.

CITY OF WICHITA EMPLOYERS' DEFERRED COMPENSATION PLAN AMENDMENT TO GREAT-WEST AGREEMENT FOR RECORDKEEPING AND COMMUNICATION SERVICES.

Agenda Report No. 06-0996

In 1991, the City of Wichita hired Great-West to administer the deferred compensation plan. Following a Request for Proposal process in 1996 and in 2001, Great-West was hired for two consecutive five-year periods. The current contract expired on September 30, 2006.

The Deferred Compensation Board, at its August 10, 2006 meeting, took action to approve the hiring of a consultant to prepare a Request for Proposal, assist in the evaluation of all responses, and assist in the transition to a new provider, if necessary. A one-year contract extension with Great-West is required to provide sufficient time to complete the RFP process, select a provider and negotiate a new contract.

All costs associated with the administration of the program are borne by the participants of the program.

The City of Wichita, by offering this supplemental retirement savings program, impacts the Internal Perspective goal by increasing employee motivation and satisfaction. Also, the City's practice of going through a periodic Request for Proposal process is done to reduce/avoid costs which is another indicator of the Internal Perspective goal.

The Law Department has approved the contract as to form.

Motion--

Mayans moved that the Amendment be approved and the Mayor authorized to sign. Motion carried 6 to 0, (Skelton absent).

--carried

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 123

MINING LEASE

ADDENDUM TO MINING LEASE. (DISTRICT VI)

Agenda Report No. 06-0997

On October 19, 2004, the City Council approved a lease agreement for aggregate mining on the Kingsbury Tract.

Staff has determined there is more overburden soil on the site than can be used on the site and the adjacent Brooks Landfill. A commercial market exists for this soil. The lessee, Quik Sand Inc., is capable of selling the excess overburden.

A royalty for the overburden that increases over the life of the agreement from an initial 7.725 cents per ton to a maximum of 9.219 cents per ton has been negotiated with Quik Sand and incorporated into the lease addendum.

This lease and its addendum addresses the indicator of optimizing public assets under the efficient infrastructure goal.

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

Motion--
--carried

Mayans moved that the lease addendum be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

COMCARE

INTERAGENCY AGREEMENT WITH COMCARE.

Agenda Report No. 06-0998

The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access has provided 509,387 rides. By entering into an interagency agreement with COMCARE, Wichita Transit estimates 1,600 rides a year to low-income workers. This is the standard Interagency Agreement that we use with agencies that want to purchase rides through the Access program. This Agreement is a renewal. We have been providing rides for COMCARE clients since July of 2005.

Part of the Access to Jobs grant is to provide half the cost of the rides that agencies offer low-income clients when they are trying to enter or re-enter the work force. The other half of those expenses are borne by the agency.

The Access to Jobs rides will be purchased with grants from FTA (50%) and from COMCARE (50%). No city funds will be involved in the Access rides.

The Agreement impacts the goal, "Ensure Efficient Infrastructure." It impacts the indicator "Maintain safe and dependable transportation systems." Entering into this Agreement will allow us to transport more low-income clients to work and back in a safe, cost effective and dependable manner. This Agreement also impacts the goal, "Promote Economic Vitality and Affordable Living." It impacts the sustained affordable living indicator by providing affordable rides to work, when no other suitable alternative is available.

The City's Law Department has approved the Agreement prior to execution as to form.

Motion--
--carried

Mayans moved that the Interagency Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 124

KANSAS CLICKS

2005/2006 KANSAS CLICKS SPECIAL TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT.

Agenda Report No. 06-0999

Since 2001, the Wichita Police Department has been awarded grant funds from the Kansas Department of Transportation to participate in the KANSAS CLICKS Special Traffic Enforcement Program (STEP). The KANSAS CLICKS STEP provides participating departments with grant money to pay for overtime worked by police officers performing safety belt surveys, public education, and enforcement work during the following designated mobilizations: Thanksgiving holiday, Child Passenger Safety Week, Memorial day/Buckle Up America Week, and Labor Day. The purpose of the STEP Program is to promote highway safety through awareness, education, and enforcement of the Kansas safety belt, child passenger safety, and impaired driving laws.

The KANSAS CLICKS Special Traffic Enforcement Program has been a critical component of the Police Department's Comprehensive Traffic Safety Plan, which focuses on awareness/education, enforcement, prevention, and equipment. The STEP grant will support increased education and enforcement, thus potentially reducing the number of traffic accidents that impact the quality of life in our community.

The Kansas Department of Transportation will reimburse the Police Department for overtime, not to exceed the amount of the grant, which is currently estimated at \$50,000.

Impact the quality of life in our community by reducing the number of traffic accidents through increased education and enforcement.

Motion--
--carried

Mayans moved that the STEP grant application and receipt of funds be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

ORDINANCES

FIRST READING ORDINANCES: (FIRST READ SEPTEMBER 26, 2006).

- a) Sidewalk Repair Assessment Program. (Districts I, II, III)

ORDINANCE NO. 47-136

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans. (Skelton absent)

- b) A06-18R-generally located southwest of 159th Street East and I-35. (District II)

ORDINANCE NO. 47-137

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent). (A06-18R)

CITY COUNCIL PROCEEDINGS

NEW BUSINESS

KSDD PROP. LLC

PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS, KSDD PROPERTIES, LLC. (DISTRICT II)

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-1000

On February 8, 2005, City Council approved a one-year Letter of Intent to issue IRBs in the amount not to exceed \$9,000,000, and a 90% five-plus-five-year property tax exemption on bond financed property to Delta Data Systems, Inc. for the benefit of Delta Dental Plan of Kansas, Inc. The bonds will be used for the purpose of financing the cost of acquiring, constructing and equipping a corporate headquarters facility to be leased to Delta Data Systems, Inc., located in the Waterfront Addition at 13th & Webb. On February 7, 2006, City Council approved an additional one-year extension of the Letter of Intent until February 8, 2007.

On March 7, 2006, City Council approved an Assignment of the Letter of Intent to change the Tenant entity from Delta Data systems, Inc. to KSDD Properties, LLC. The construction is nearly complete and Delta Data Systems is requesting the issuance of IRBs at this time, in the amount of \$9,000,000. Delta Data Systems will sublease the project to Delta Dental Plan of Kansas, Inc. ("Delta Dental").

KSDD Properties, LLC is a wholly owned subsidiary of Delta Dental of Kansas, Inc. Its Articles of Organization were filed with the Kansas Secretary of State in December 2005. Delta Data systems is not being dissolved, but KSDD Properties, LLC was developed as a separate entity for building ownership. Delta Data Systems, Inc. is a for-profit Kansas corporation founded in 1987 to provide computer software products and support services to dental insurance carriers and to serve as owner and landlord for the Wichita headquarters of its shareholder, Delta Dental Plan of Kansas, Inc. Delta Dental was founded in 1972 and is the oldest and largest dental benefits carrier in the State. Delta Dental is a member of the Delta Dental Plans Association, a nationwide network of dental service corporations. The company provides dental benefits to more than 45 million subscribers and their family members in the United States. Delta Dental working closely with participating dentist networks, provides dental benefit plans to organizations and individual employers in the State of Kansas, and through a national program for businesses and employees known as DeltaUSA, provides dental benefits to businesses and organizations with employees in multiple states.

Delta Data Systems proposed expansion includes construction and equipping a new two-story corporate headquarters building, consisting of approximately 40,000 s.f., including sufficient parking to accommodate a growing staff and guests. Delta Dental has demonstrated continued growth throughout its 32-year history and is in need of new and larger office facilities. As a statewide insurance carrier, Delta Dental could locate its Kansas headquarters anywhere in the state. Delta Dental currently employs 84 people, including 76 in Wichita, and plans to add 21 new jobs over a five-year period, at an average annual salary of \$40,813.

An analysis of the uses of project funds is:

| | |
|-----------------------------------|----------------|
| Land | \$1,800,000 |
| Building | 6,250,000 |
| Furniture, Fixtures and Equipment | <u>950,000</u> |
| Total Cost of Project | \$9,000,000 |

CITY COUNCIL PROCEEDINGS

The firm of Kutak Rock LLP serves as bond counsel in the transaction. The Company plans to privately place the bonds with a financial institution and the bonds will not be re-offered to the public. The Company agrees to comply with the City's requirements contained in the Letter of Intent. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

| | |
|---------|-------------|
| City | 1.34 to one |
| County | 1.24 to one |
| USD 259 | 1.22 to one |
| State | 3.12 to one |

The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the Company qualifies for a 90% five-plus-five-year tax exemption on property purchased with bond proceeds, based on creation of 21 new jobs, investment of \$9 million and average wages that exceed the average for this type of business.

The estimated first year's taxes on Delta Data's proposed \$9,000,000 expansion would be \$177,000, on real property improvements and \$23,000 on personal property, based on the 2004 mill levy. Using the allowable tax exemption of 90 percent, the City would be exempting (for the first year) \$180,000 of new taxes from the real and personal property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$50,000; County/State - \$48,000; and USD 259 - \$82,000.

Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption and sales tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

The City's bond counsel has prepared Bond documents needed for the issuance of bonds. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Mayor Mayans

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

Motion--

Schlapp moved that the public hearing be closed; the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount of \$9,000,000 be placed on first reading and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

--carried

ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas to issue its industrial revenue bonds (taxable under federal law), Series II, 2006 (KSDD Properties, LLC) in the aggregate principal amount of \$9,000,000 for the purpose of acquiring, constructing and equipping a commercial facility; and authorizing the execution of certain documents in connection with the issuance of the bonds, introduced and under the rules laid over.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 127

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

Kurt Schroeder Office of Central Inspection reviewed the item.

Agenda Report No. 06-1001

On August 22, 2006 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on October 3, 2006.

On August 2, 2006 the Board of Code Standards and Appeals (BCSA) held a hearing on seven (7) properties. These properties are listed below:

| <u>Property Address</u> | <u>Council District</u> |
|-------------------------|-------------------------|
| a. 1134 North Poplar | I |
| b. 221 North Spruce | I |
| c. 1055 North Green | I |
| d. 1625 North Grove | I |
| e. 2302 North Piatt | I |
| f. 520 West Clark | III |
| g. 1828 South Santa Fe | III |

On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Pursuant to State Statute, the Resolutions were duly published twice on August 24, 2006, and August 31, 2006. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Kurt Schroeder Office of Central Inspection stated that the board recommends that the Council proceed with condemnation of these residential buildings except for the property listed as E) 2302 North Piatt.

Motion-- Mayans moved that the public hearing be closed; the resolutions declaring the buildings dangerous and unsafe structures adopted, and the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures accepted. Any extensions of time granted to repair the structures would be contingent on the following: (1) All taxes have been paid to date, as of October 3, 2006; (2) the structures have been secured as of October 3, 2006 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of October 3, 2006 and will be so maintained during renovation except for item E) 2302 North Piatt. Motion carried 6 to 0, (Skelton absent)

--carried

RESOLUTION NO. 06-515

A Resolution finding that the structure/s legally described as Lot 114, Mona, now Poplar Street, Fairmount Park Addition, to Wichita, Sedgwick County, Kansas, known as 1134 North Poplar Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 128

RESOLUTION NO. 06-516

A Resolution finding that the structure/s legally described as Lot 16, Spruce Avenue, Park Place Addition to Wichita, Sedgwick County, Kansas, known as 221 North Spruce Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-517

A Resolution finding that the structure/s legally described as Lots 42 and 44, Block 2, Esterbrook Park Addition to Wichita, Sedgwick County, Kansas, known as 1055 North Green Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 1055 North Green, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-518

A Resolution finding that the structure/s legally described as Lots 67 and 69, on Tyler, now Grove Street, Logan Addition to Wichita, Sedgwick County, Kansas, known as 1625 North Grove Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 1625 North Grove, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-520

A Resolution finding that the structure/s legally described as Lots 18 and 20, on Gold Street, Fair Grounds Second Addition to Wichita, Sedgwick County, Kansas, known as 520 West Clark Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 520 West Clark, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-521

A Resolution finding that the structure/s legally described as Lots 22,24 and the North 15 feet of Lot 26, to Wichita, Sedgwick County, Kansas, known as 1828 South Santa Fe Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 1828 South Santa Fe, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

Kurt Schroeder

Office of Central Inspection reported that item E) 2302 North Piatt, which they have had a housing case on this property for over nine years and the owner has been notified. Stated that they have found out that the owner lives out of state and is an elderly person. Stated that her niece, Loretta Jackson, had been living in that house for some period of time but was vacated this spring. Stated that it is her intent to try to move back into this house and live there after she has made the repairs. Stated that she would like the opportunity to see if her aunt would deed the property to her and if she would do that, she would probably be eligible for assistance from the Neighborhood Improvement Services. Stated that staff is requesting that this item be deferred for a couple of weeks to allow staff to get with Ms. Jackson to see what they can work out and come back to the Council at a later time. Stated that he was on the property yesterday and there was some debris on the rear driveway and some tall grass in the back and she plans to get this cleaned up right away and it is secured at this point.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 129

Motion--
--carried

Brewer moved to give the allotted 30-day time frame to work out the details. Motion carried 6 to 0, (Skelton absent).

REAP

AMENDED INTERLOCAL AGREEMENT, REGIONAL ECONOMIC AREA PARTNERSHIP.

Allen Bell

Economic Development Administrator reviewed the item.

(Council Member Fearey momentarily absent)

Agenda Report No. 06-1002

The Regional Economic Area Partnership was created in 1997, under the terms of an interlocal agreement between a number of cities in South Central Kansas, for the purpose of improving the economic well-being of this region through more effective advocacy of regional interests at the state and federal levels and better coordination of regional economic development activities such as water resource management, workforce development and air service. Currently, REAP membership includes 32 cities and 5 counties located in the six-county area of Sedgwick, Reno, Harvey, Butler, Cowley, Sumner and Kingman counties. Current City of Wichita delegates to REAP are Mayor Mayans and Council Member Martz (alternate). As a result of recent legislation impacting its activities, REAP is requesting approval by the City of Wichita of an amended interlocal agreement.

At its meeting of September 11, 2006, Regional Economic Area Partnership (REAP) took action to amend the interlocal agreement establishing REAP and requested members to pass and forward the signed version to the REAP Executive Officer for submittal to Kansas Attorney General. This action was taken in response to action of the Kansas Legislature in assigning REAP responsibility for administering the Kansas Affordable Airfares Program.

This new responsibility required REAP to make a number of revisions in order to administer the Kansas Affordable Airfares Program. These revisions included amending the REAP interlocal agreement to:

- Create REAP as a separate legal entity in paragraph 1.
- Nullify previous agreements adopted by cities and counties.
- Ratify all actions taken by REAP in previous agreement.
- Define south-central Kansas region to include the nine counties and cities therein.
- Allow cities or counties outside of defined region to become members upon a 2/3 vote of approval.
- Be adopted by either resolution or ordinance, as opposed to only resolutions.
- Allow one vote per member on all issues and deletes language allowing votes based on population.
- Define elected members from counties as county commissioners.
- Provide that current officers remain in office until new elections in May.
- Delete reference to rotation of officers on yearly basis.
- Provide that current by-laws remain in effect until new by-laws are adopted pursuant to new agreement.
- Provide some specific new powers granted by statute including: right to sue or be sued; to contract; and to issue bonds. Powers not specified in the previous agreement.
- Becomes effective upon adoption by 10 cities or counties in south-central Kansas.

REAP has also requested that the member cities and counties reappoint or appoint delegates and alternate delegates to REAP, as an effort to fill any vacancies that currently exist.

There is no financial impact to the City of Wichita.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 130

Economic Vitality and Affordable Living. Membership in REAP helps ensure that the Wichita region receives a more fair share of the economic benefits that come from state and federal actions.

The resolution and amended interlocal agreement have been approved as to form by the Department of Law.

- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Council Member Martz Council Member Martz stated that he is a huge supporter of REAP but has some concerns regarding the issuance of bonds and other indebtedness. Stated that he is not sure if it is mandatory that this be included in there and understands that there is a potential that this could be possibly changed in the bylaws versus the Interlocal Agreement.
- Allen Bell Economic Development Administrator stated that would be the preferred action as he understands it, the way the statutes are structured, any separate legal entity that is created under that act has the power to issue bonds, which is granted by the statute and not necessarily by an Interlocal Agreement, however, in order to better protect and safe-guard the liability of the members of REAP, legal counsel has recommended that the Interlocal Agreement also address the issue of the power to issue bonds. Stated that the statute also very specifically limits the way in which indebtedness can be incurred by a separate legal entity created under an Interlocal Agreement and it says that any debt issued by REAP, would not be an indebtedness against any of its members, so REAP would not have the ability to issue bonds that would be a legal obligation of the City of Wichita, unless the City were to separately contract with REAP in order to provide some sort of back stopping or financial support for that indebtedness. Stated that it would not give REAP any separate ability to impose indebtedness on any of its members. Stated that he has spoken with members and staff of REAP and they currently have no intention and have never contemplated the possibility ever issuing debt.
- Council Member Martz Council Member Martz asked if it would be better to wait until the bylaws are changed. Stated that he has a struggle with the fact of any potential since they are changing the rules of the voting of each member having one vote that a majority could potentially tie us in and the only recourse the City has is to withdraw from REAP and he does not feel that is a viable answer and does not want us to withdraw and feels that it is almost mandatory that we stay in REAP, however, he is concerned that if we do not have action taken on the bylaws, when would that happen.
- Allen Bell Economic Development Administrator stated that his understanding is that there is not an urgent need to pass this, however, they do need to get established as a separate legal entity for the purposes of the air service program. Stated that they are currently attempting to secure the funding from the state and believe that this step is necessary for that. Stated that they could possibly delay for a couple of weeks and there will be another REAP meeting on the 16th and if it was the Council's wish to delay until the 17th when there could be more discussion that would provide the Council to provide some understanding of how it was going to progress.
- Council Member Martz Council Member Martz stated that he does not want to jeopardize the funding of the airfares but at the same time is really concerned and does not want to potentially hang the City up for liability that we would have.

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 131

Joe Yeager

Mr. Yeager, Executive Officer of REAP, stated that regarding the changing of the voting, the only thing he would note on the change in the vote from a population base to a single vote per member was that it was a specific language within there talking about for financial based decisions, which was put in prior to counties joining. Stated that causes some problems in calculating how you do those different types of votes. Stated that they also went through that when they changed the structures for assessments instead of the counties were not paying for certain member population and so they changed that as well. Stated that is something that they looked at when trying to decide what their best action would be on looking at those votes. Stated that Allen Bell was correct in saying that we are not in a rush to do this but it is important that we get it in, especially since we are being put in charge of such an important state function of financing this affordable airfares program and that is really what is pushing them and they cannot go forward until they have at least 10 Interlocal Agreements signed to forward up to the Attorney General and that would be the point that their bylaws would then really be able to be changed to reflect the Interlocal Agreement. Stated that he feels that they need a definite provision on the bonding power and the indebtedness within the bylaws. Stated that he has talked with legal counsel on this and they think that would be the best way to handle it because currently under statute they have the ability to do it but they could keep themselves from doing it by placing it in the bylaws and since they do not know what would happen in the future, it would be better to handle it that way. Stated that he feels that they do need to raise the bylaws issue at the 16th meeting and that they would have the 30 days that they would need to change the bylaws then.

Council Member Martz

Council Member Martz stated that he feels that there is a certain sense of urgency to get this in place because of the airfares issue and would be supportive of going ahead with the Interlocal Agreement with the understanding that they at least address the bylaws issue at the earliest convenience of REAP to protect us all.

Motion--

Mayans moved that the resolution approving the amended REAP interlocal agreement be adopted; the Mayor authorized to sign, and reappoint Mayor Mayans as the City's delegate to REAP and Council Member Martz as the alternate. Motion carried 6 to 0, (Skelton absent).

--carried

RESOLUTION NO. 06-511

A Resolution of the governing body of the City of Wichita authorizing the city to execute and interlocal agreement creating the regional economic area partnership to serve and promote the interest of local governments in South Central Kansas. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

HUD PLAN

HUD CONSOLIDATED PLAN ANNUAL PERFORMANCE AND EVALUATION REPORT.

Mary K. Vaughn

Director of Housing and Community Services reviewed the item.

(Council Member Martz momentarily absent)

Agenda Report No. 06-1003

The City is required to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) for projects covered by the HUD Consolidated Plan. The CAPER documents the activities undertaken during the program year beginning July 1, 2005 and ending June 30, 2006 for the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) and the Emergency Shelter Grant (ESG) programs.

During the reporting period, residents of the city of Wichita received direct benefits from expenditure of CDBG, HOME and ESG funds. Funds were expended under the CDBG program for 19 capital improvement projects. Neighborhood Improvement Services provided grants and loans to homeowners for the rehabilitation of 247 residential structures and 12 neighborhood clean-ups were funded. Public Service agencies received funds to assist 303 youth with summer employment and 6,036 youth participated in recreation and enrichment after-school programs. Two women's shelters served 477 women and 366 children who were victims of domestic violence. The HOME program assisted 62

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 132

households to secure affordable housing and 10 households received rehabilitation assistance through the Deferred Loan Program. The ESG program served 4,531 persons (cumulative) by providing short-term shelter, case management and other services to homeless persons and victims of domestic abuse.

The total expenditures for the 2005/2006-program year were \$7,080,087. The expenditures consist of \$3,871,871 for the CDBG program, \$3,081,530 for HOME Investment Partnerships program and ESG expenses were \$126,686.

Approval of the CAPER shows how federal funds were used to enhance the goals of supporting a Dynamic Core Area and Vibrant Neighborhoods and Enhancing the Quality of Life.

The City is required to provide an opportunity for citizens to review and comment on the CAPER prior to submitting the CAPER to the U.S. Department of Housing and Urban Development (HUD). The City published a notice in the Kansas State Globe on September 21, 2006 and in the Wichita Eagle on September 23, 2006, advising that public comments would be accepted until October 2, 2006. The CAPER was made available to the public through the Neighborhood City Halls, Housing and Community Services Department, Planning Department, City Council Office, City Manager's Office, City of Wichita website and all branches of the Wichita Public Library.

Mayor Mayans

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

Motion--

Mayans moved that the HUD Consolidated Annual Performance and Evaluation Report be approved; the Public Hearing closed and the submission to the U.S. Department of Housing and Urban Development authorized. Motion carried 5 to 0, (Skelton and Martz absent)

--carried

PETITION

PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE THREE LOTS LOCATED NORTH OF 8TH STREET NORTH, EAST OF ARAPAHO. (DISTRICT V)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-1004

The signatures on the Petition represent 1 of 3 (33.3%) resident owners and 63.6% of the improvement district area. District V Advisory Board sponsored a September 11, 2006, neighborhood hearing on the project. The Board voted 7-0 to recommend approval of the project.

The project will construct a sanitary sewer for a partially developed residential area that is currently served by private septic tank systems.

The estimated project cost is \$69,000 with the total assessed to the improvement district. In addition, a sewer main benefit fee of \$1,800 will be assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$1.36 per square foot of ownership plus \$00.035 per square foot of for the main benefit fee.

This project addresses the Efficient Infrastructure and Vibrant Neighborhoods goals by extending sanitary sewer service to an existing residential area.

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

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 133

Mayor Mayans

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

Motion--
--carried

Martz moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

RESOLUTION NO. 06-512

A Resolution of findings of advisability and resolution authorizing construction of lateral 275, main 5, sanitary sewer number 22 (north of Central, west of the I-235 Freeway) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

PLANNING AGENDA

CON2006-00027

CON2006-00027--CONDITIONAL USE FOR 150-FOOT WIRELESS COMMUNICATION TOWER ON PROPERTY ZONED GC GENERAL COMMERCIAL. GENERALLY LOCATED EAST OF PORTER AND SOUTH OF 29TH STREET NORTH. (DISTRICT VI)

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 06-1005

MAPC Recommendation: Approve (11-1)
Staff Recommendation: Deny.
DAB Recommendation: Deny (6-2)

The applicant is seeking a conditional use to permit the construction of a 150-foot monopole wireless facility for use by T-Mobile USA. The proposed site is zoned GC General Commercial, and is located at the southeast corner of 29th Street North and North Porter Avenue, adjacent to the Little Arkansas River. This application was originally submitted as an administrative permit (BZA2006-00027), which was denied by staff (attached). In accordance with Section III-D.g (4) of the Unified Zoning Code, this conditional use application is an appeal of the administrative denial.

The character of the area immediately adjacent to the site is largely residential in nature, with various commercial and office uses scattered north and west along 29th Street. The application area (see attached site plan) is approximately 0.40 acres located on a wedge-shaped lot bounded by 29th Street to the north, Porter Avenue to the west, and SF-5 Single-family Residential zoning and development to the south. The site is well screened from surrounding properties, as the property is heavily wooded. However, the proposed tower would be located within approximately 25 feet of 29th Street right-of-way and adjacent single-family lots. Therefore, approval of this request would also require a waiver of the compatibility setback standards which require wireless facilities to not exceed a height equal to the distance to the lot line of property zoned TF-3 or more restrictive from the lot line.

District Advisory Board VI heard this request on July 19, 2006. DAB VI recommended denial (6-2), citing staff recommendation and neighborhood opposition. A protest petition signed by 53 people was presented to the DAB.

At the MAPC hearing on July 20, 2006, the MAPC voted (11-1) to recommend approval of a 150-foot tower at this location. At the MAPC meeting the applicant offered to reduce the height of the tower to 120 feet and to disguise the antenna as lights, as depicted in the attached photography. The MAPC did not cite any findings for their recommendation or attach any conditions of approval. If the City Council accepts the MAPC's recommendation, the request should be subject to the following normally applied conditions of approval:

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 134

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the conditional use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be no greater than 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- F. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

Staff has received written protest to the MAPC approved conditional use that totals 37.81% of the total property within a 200-foot radius of the outer boundaries of the subject property. Therefore, at least 3/4 of the Governing Body must vote to approve the conditional use to overturn the protest.

Promote Economic Vitality and Affordable Living

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

- | | |
|-----------------------|---|
| Council Member Gray | Council Member Gray asked if this meets the existing wireless master plan. |
| John Schlegel | Planning Director stated no and in their review of this application this is the reason that staff recommended denial, because it did not meet several of the criteria in the master plan, such as its proximity to nearby residential areas and its proximity to the Little Arkansas River. |
| Mayor Mayans | Mayor Mayans asked if staff recommends deferral back to the MAPC. |
| John Schlegel | Planning Director explained that the applicant has requested either a deferral of action by this board or a referral of the action back to the MAPC. Stated that staff’s recommendation had been for denial. |
| Mayor Mayans | Mayor Mayans stated that the people do not want this so what would referring this back to the MAPC would actually do. |
| John Schlegel | Planning Director explained that the item had originally been scheduled 30 days ago and its appearance today represents one deferral. Stated that due to the applicant’s agent’s schedule, he was unable to meet with the neighbors and is requesting another opportunity to do so. |
| Council Member Fearey | Council Member Fearey stated Mr. Ferris requested that this item be sent back to MAPC so that he could meet with the neighbors but as it was mentioned, this has already been deferred once for 30 days and she does not think that the neighbors should be left hanging for anymore time regarding this issue. Stated that the applicant has said to her that they will be back and that they have to have a tower in this area. Suggested that the applicant become a little more proactive and get out and meet with the neighborhood and take aerial maps and pictures to see if there is anything that the neighborhood and the provider can work out and would be acceptable to both parties. |
| Motion-- | Fearey moved that the City Council deny the CON2006-000027, based on the findings that are sited from staff: 1) the zoning uses and character of the neighborhood; 2) the suitability of the subject property for the uses to which it has been restricted; 3) extent to which removal of the restrictions will detrimentally effect nearby property; 4) relative gain to the public health, safety and welfare as compared to the loss and value or the hardship imposed upon the applicant and 5) conformance of the requested change to the adopted or recognized Comprehensive Plan. Motion carried 6 to 0, (Skelton absent). |
| --carried | |

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 135

HOUSING AGENDA

AGENCY PLANS

PUBLIC HEARING-FIVE-YEAR AND YEAR 2007 ANNUAL AGENCY PLANS.

Mary K. Vaughn

Director of Housing and Community Services reviewed the item.

Agenda Report No. 06-1006

On October 21, 1998, the Quality Housing and Work Responsibility Act of 1998 (QHWRA) were signed into law as part of the FY 1999 Appropriations Bill. One provision of the Act is the mandate for public housing authorities to prepare a five-year plan showing the needs and goals for that period and a more detailed annual operating plan. The annual plan must include, among other things, information on the housing needs of the locality, population served, method of rent determination, operation policies and procedures, capital improvements, unmet housing needs of families with income less than 30 percent of median income and efforts to coordinate programs and other items.

Section 511 of the QHWRA requires the board of directors of housing authorities to conduct a public hearing to discuss the housing authority plans and to invite public comment regarding the plans. In the event that the Housing Authority Board receives public comment, written or oral, which is deemed significant enough to amend the plans, the Housing Authority Board may amend the plans and certify the plans as amended. After the Housing Authority Board has considered comments submitted at the hearing and approved the WHA Five-Year and Year 2007 annual Plans, subject to any amendments, the WHA staff will transmit the policies and programs to HUD via an electronic template. (See attached)

The 2007 Annual Plan includes the addition of three single-family dwellings as replacements to the three dwellings that were previously sold in the homeownership program. In addition, it is planned that the Section 5h Homeownership program be terminated with the development of a marketable homeownership program in partnership with the Housing and Community Services HOME Program.

The certification of the Five-Year and Year 2007 Annual Plans will bring the Wichita Housing Authority into compliance with the Quality Housing and Work Responsibility Act of 1998.

The 2007 Capital Fund Budget request is a part of the 2007 Annual Plan for approval by the WHA's Governing Board.

Promote Economic Vitality and Affordable Living

Motion--

Inafay Gray-McClellan moved that the Public Hearing be closed; the Resolution adopted and the necessary signatures relative to required certifications for the submission of the Wichita Housing Authority Five-Year and Year 2007 Annual Agency Plans authorized. Motion carried 7 to 0, (Skelton absent).

--carried

RESOLUTION NO. H-06-03

A Resolution authorizing five year and year 2007 annual agency plans. Inafay Gray-McClellan moved that the Resolution be adopted. Motion carried 7 to 0, (Skelton, absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 136

CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

- Council Member Schlapp Council Member Schlapp requested that Tim Pasture be appointed to the Public Buildings Commission.
- Council Member Martz Council Member Martz requested that Pat Peppard be appointed to the Arts and Cultural Board.
- Council Member Fearey Council Member Fearey requested that Sandra Whittington be appointed to DAB VI.
- Motion--carried Mayans moved that the appointments be made. Motion carried 6 to 0, (Skelton absent).

OFF-AGENDA ITEM

- Motion--carried Fearey moved to be allowed to bring up an Off-Agenda Item. Motion carried 6 to 0, (Skelton absent).
- Council Member Fearey Council Member Fearey stated that there has been a lot written about the issue with Cowtown regarding the animals and she would like to officially ask staff to look at the animal control ordinance that is in place and see how we can work with the living history museum to figure out the issues with the rooster and the pigs, which were also an issue, just to make sure that we are not doing something that is keeping the museum from moving forward with what they see is their mission.
- George Kolb City Manager stated that staff would be glad to do that and that those are minor violations and that they had no intentions of moving forward on those.
- Council Member Gray Council Member Gray stated that he has been receiving e-mails and reading the opinion line that some people out there have this idea that we are trying to close down Cowtown so that we can sell it off to some developer, which is not true and would appreciate it if our colleagues in the media would make sure in their future stories that they get that out there that this is not even up for discussion. Stated that these rumors are distracting from the real issue and is turning the focal point away and causing a lot of hatred. Stated that he would like to dismiss this idea outright and let people know that we are not even remotely discussing this and no one has even approached the City trying to buy that property.
- Council Member Fearey Council Member Fearey stated that she thinks that Becky Tanner with the Wichita Eagle is trying to put together a story about the different rumors that are out there and hopefully this will be do something to start putting those rumors at rest. Stated that the Council Members have never discussed doing something with Cowtown except having it as Cowtown. Stated regarding the rooster, she feels that it is a fine living history museum without a rooster but it does seem to have brought the community together with some of the rumors and e-mails and if we can at least look at it then she feels that we are erring on the side of looking like we are trying to help them.

EXECUTIVE SESSION

- Motion-- Mayans moved that the City Council recess into Executive Session at 10:45 a.m. to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, legal advice and preliminary discussions relating to the acquisition of real property for public purposes and that the Council return from Executive Session no earlier than 11:15 a.m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 6 to 0, (Skelton absent).
- carried

CITY COUNCIL PROCEEDINGS

JOURNAL 187

OCTOBER 3, 2006

PAGE 137

- RECONVENE** The City Council reconvened from Executive Session at 11:30 a.m. Mayor Mayans announced that no action was taken.
- Motion--carried Mayans moved to adjourn the Executive Session at 11:30 a.m. Motion carried 6 to 0, (Skelton absent).
- Mayor Mayans Mayor Mayans requested that the City Council return to the City Council Agenda so that Council Member Brewer could make an appointment.
- Council Member Brewer Council Member Brewer requested that Andy Bias be appointed to the Public Building Board.
- Motion--carried Mayans moved to approve the appointment. Motion carried 6 to 0, (Skelton absent).
- Motion--carried Mayans moved adjourn the Regular Meeting. Motion carried 6 to 0, (Skelton absent).
- ADJOURNMENT** The City Council Meeting adjourned at 11:32 a.m.

Respectfully submitted,

Karen Sublett CMC
City Clerk

Workshop followed in the City Council Chambers