

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, March 4, 2008
Tuesday, 9:05 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.

Major Douglas Rowland from the Salvation Army gave the invocation.

The Minutes of the regular meeting of February 26, 2008, approved 7 to 0.

AWARDS AND PROCLAMATIONS

--Proclamations

Proclamations:

Mayor Brewer read aloud the following proclamations:

- Registered Dietician Day
- Vivian and JC Day
- Emerald City Chorus

--Service Award

Distinguished Service Award-Glenda K. Lorenz.

Mayor Brewer recognized and presented Glenda Lorenz with a plaque for her 30 years and three months with the Wichita Water Department.

PUBLIC AGENDA

Autumn Heithaus-The Northern Flyer Alliance.

Autumn Heithaus

Ms. Heithaus stated she is with the Northern Flyer Alliance and is asking the Council to pass a resolution for the expansion of the Northern Flyer Alliance that currently runs from the Dallas/Ft Worth area to the Oklahoma area. Stated their grassroots organization is asking for the expansion from the Ft Worth/Dallas area all the way up to the Kansas City area, which would mean that Wichita would become one of the stops along the way. Stated the proposed route is on their website and provided this information to the Council to look at that website and look at the proposed route. Stated they are asking everyone along the proposed route to adopt this resolution for the expansion and asked that Wichita become a designated stop for this passenger train. Stated three weeks ago she met with the Old Town Association and they are in support of this expansion in Wichita and she has been around to other various groups talking about this expansion and she has taken on 10 additional area directors across the state of Kansas along the proposed route to help build support for this. Stated they do have three legislative leagues, which will help them address this agenda to the legislatures and they are Senator McGuinn, Senator Journey, and Senator Goodwin.

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Council Member Skelton Council Member Skelton stated this is worth exploring and sounds exciting. Stated when you look at the high cost of gas these days, we are all looking at alternative forms of transportation and railroad is one of them that could be reborn into our society. Stated he is interested in knowing what the feasibility is and knowing more about it and does not object to a resolution of support that is non-binding.

Autumn Heithaus Ms. Heithaus stated they are going to create a Wichita board and would invite anyone who wishes to be on it and every single area that is going to be along the expansion, there will be a board created for them also.

Vice-Mayor Fearey Vice-Mayor Fearey stated this did come up recently at an Old Town Association Meeting and they were all very supportive of this. Stated she thinks the Council should look at it and ask the Director of Law to look at it and bring it back to a workshop or have it on a Council agenda and make sure that we are legally okay with everything and get behind this. Stated we have a lot of people in our community that do take the train and drive up to Newton and would like to take it to Kansas City. Stated she thinks this is something that could really enhance our City and have people coming in and out of here. Asked that Staff look at this and get back with Council on the first meeting in April.

Don Hamm-Smoker's Rights.

Mr. Hamm Mr. Hamm stated that smoker's individual rights are possibly being taken away from them by the Council's actions. Asked the Council to drop this smoking ban idea and that we have enough restrictions. Stated the City should not get involved in this and it hurts the business owners and taking away rights of others.

CONSENT AGENDA

Motion-- Brewer moved that Consent items 3 through 23c be approved in accordance with the recommended
--carried action shown thereon. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED MARCH 3, 2008

Bids were opened February 29, 2008, pursuant to advertisements published on:

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

Alta from 350' west of Ellis to Hydraulic (south of MacArthur, west of Hydraulic) 472-84437(766159)
District IV

Kansas Paving Company - \$277,374.87

Woods North Addition SWD #346 468-84487(751467); Lat 1 M26, FMCS 468-84485 (744274)
District II

Nowak Construction - \$566,500.21 Group 1
\$276,125.00 Group 2
\$842,625.21 Total Aggregate Bid

The Pines at Sawmill Creek Addition, North Iron Wood Circle 472-84630(766182) District II

APAC – Kansas, Inc. - \$132,860.45

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

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PUBLIC WORKS DEPARTMENT/FLEET MAINTENANCE DIVISION: Motor Grader w/Front Scarifier, 31,000 lb

Wichita Tractor Co. – \$ 766,188.00 Total Base Bid
\$ 14,970.00 Option 1
\$(177,500.00) Option 2 Deduct

PUBLIC WORKS DEPARTMENT/FLEET MAINTENANCE DIVISION: Front Deck Flex-Wing Mower

Turf Professionals Equipment Co. - \$272,807.92

FINANCE DEPARTMENT/TREASURY DIVISION: Armored car services

PSI Armored Inc. - \$38,680.00 *

*Estimate – Contract approved on unit cost basis; refer to attachments.

POLICE DEPARTMENT/TRAINING DIVISION: Uniforms for Police Department

Baysinger Police Supply - \$88,105.60 *

*Estimate – Contract approved on unit cost basis; refer to attachments.

PARK AND RECREATION DEPARTMENT/GOLF DIVISION: Fertilizer for golf courses

Helena Chemical Co. - \$35,867.80 Group 1
Grass Pad - \$ 4,785.60 Group 2

FIRE DEPARTMENT/FIRE SAFETY DIVISION: Thermal Imaging Cameras and Accessories

Municipal Emergency Services, Inc. - \$38,468.75 *
DBA MES-MIDAM

*Purchases utilizing Sole Source of Supply Ordinance No. 35-856, Section 2.(b)

WATER UTILITIES DEPARTMENT/PRODUCTION AND PUMPING DIVISION: Standby Generator Equipment Only

Foley Equipment Co., Inc. - \$3,815,851.00 Base Bid
\$ 460,444.00 Group 3 Alternate 2

Motion--
--carried

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

LICENSE

APPLICATIONS FOR LICENSES:

Renewals

Sheena Thomas Dominq's 2425 West McCormick

Motion--
--carried

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

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CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Arounh Sengseevong	Bangkok Thai Restaurant*	2020 South Rock Road Suite 50

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

Motion--
--carried

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

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. Driftwood from the east line of Lot 52, Block D, west to the west line of Cimarron; Driftwood from the west line of Cimarron, west to the west line of Lot 1, Block A; Cimarron from the south line of 45th Street North, south to the north line of Kollmeyer; Kollmeyer from the east line of Lot 82, Block A, west to the west line of Ridge Port; Ridge Port from the north line of Kollmeyer, north to the north line of Lot 28, Block A; Kollmeyer Court (Lots 37 through 42, Block B) from the north line of Kollmeyer, north to and including the cul-de-sac; Kollmeyer Court (Lots 31 through 39, Block C) from the north line of Kollmeyer north to and including the cul-de-sac; Kollmeyer Court (Lots 36 through 46, Block A) from the south line of Kollmeyer, south to and including the cul-de-sac; Kollmeyer Court (Lots 47 through 56, Block A) from the south line of Kollmeyer south to and including the cul-de-sac; Kollmeyer Court (Lots 63 through 82, Block A) from the south line of Kollmeyer, south to and including the cul-de-sac; Driftwood Court (Lots 52 through 62, Block D) from the north line of Driftwood, north to and including the cul-de-sac; Sidewalk on Driftwood, Cimarron, Ridge Port and Kollmeyer to serve Edge Water Addition (south of 45th Street North, west of Hoover) (472-84582/766176/490194) Does not affect existing traffic. (District VI) - \$1,465,000.00
- b. 2006-2007 Traffic Signalization, Phase III: Traffic Signalization and Left Turn Lane at the Intersection of Hoover and MacArthur (472-84424b/706956/206422) See Special Provisions. (District IV) - \$472,203.00
- c. 2008 Sanitary Sewer Reconstruction, Phase 2 (various locations north of Kellogg, east of Broadway) (468-84483/620501/668620) Traffic to be maintained during construction using flagpersons and barricades. (District I, II) - \$157,000.00
- d. Ridgehurst from the south line of the plat, north to the south line of Graystone and sidewalk on one side of Ridgehurst to serve Stonebridge 2nd Addition (north of 13th Street North, west of 159th Street East) (472-84594/766164/490182) Does not affect existing traffic. (District II) - \$145,000.00
- e. Graystone from the north line of Lot 4, Block D, south and east to the east line of Lot 19, Block F; Terhune from the west line of Lot 18, Block F, east and north to the north line of Lot 9, Block E; Ridgehurst from the north line of Graystone, north to the north line of Lot 5, Block E; Ridgehurst Court from the west line of Ridgehurst west, south and east to and including the cul-de-sac; Sidewalk on one side of Graystone, Terhune and Ridgehurst to serve Stonebridge 2nd Addition (north of 13th Street North, west of 159th Street East) (472-84591/766165/490183) Does not affect existing traffic. (District II) - \$469,000.00
- f. Lateral 56 Cowskin Interceptor Sewer to serve The Woods Addition (north of Maple, east of 151st Street West) (468-84129/744268/480957) Does not affect existing traffic. (District V) - \$541,020.00
- g. Lateral 47 Cowskin Interceptor Sewer to serve Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (468-83967/744269/480958) Does not affect existing traffic. (District IV) - \$301,000.00
- h. Water Distribution System to serve Southern Ridge 3rd & 4th Additions (south of Pawnee, west of Maize) (448-90148/735402/470075) Does not affect existing traffic. (District IV) - \$56,000.00
- i. Water Distribution System to serve Southern Ridge 4th Addition (south of Pawnee, west of Maize) (448-90147/735401/470074) Does not affect existing traffic. (District IV) - \$48,000.00

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- j. Storm Water Drain #338 to serve Monarch Landing 2nd Addition (north of 21st Street north, west of 159th Street East) (468-84434/751464/485355) Does not affect existing traffic. (District II) - \$814,000.00
- k. Storm Water Sewer #624 to serve Mesa Verde Addition (south of 37th Street North, east of Meridian) (468-84285/751458/485349) Does not affect existing traffic. (District VI) - \$85,840.00

Motion--carried

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

PETITION

CONSTRUCT PAVING, SANITARY SEWER AND WATER IMPROVEMENTS IN SIERRA HILLS ADDITION, EAST OF 127TH STREET EAST, NORTH OF PAWNEE. (DISTRICT II)

Agenda Item No. 7a.

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

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

The Petitions total \$320,000. The funding source is special assessments.

These projects address the Efficient Infrastructure goal by providing for the construction of paving, sanitary sewer and water improvements in a new subdivision.

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

Motion--
--carried

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

RESOLUTION NO. 08-123

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90371 (east of 127th St. East, north of Pawnee in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-124

Resolution of findings of advisability and Resolution authorizing construction of Lateral 412, Four Mile Creek Sewer (east of 127th St. East, north of Pawnee) 468-84499 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-125

Resolution of findings of advisability and Resolution authorizing constructing pavement on Cherry Creek Ct. from the east line of Cherry Creek in Sierra Hills to and including the cul-de-sac; cherry Creek Ct., from the north line of Cherry Creek in Sierra Hills to and including the cul-de-sac; and Cherry Creek Ct., from the north line of Cherry Creek in Sierra Hills to and including the cul-de-sac the north line of Sierra Hills Addition (east of 127th St East, north of Pawnee) 472-84690 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

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PETITION

STREET PAVING IN THE PINES AT SAWMILL CREEK ADDITION, EAST OF ROCK ROAD, NORTH OF 45TH STREET NORTH. (DISTRICT II)

Agenda Item No. 7b.

On December 4, 2007, the City Council approved a petition to pave streets in the Pines at Sawmill Creek Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the Petition represents 100% of the improvement district.

The project will provide street paving for a new residential development located east of Rock, north of 45th St. North.

The existing Petition totals \$147,000. The new Petition totals \$166,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing street paving 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. 08-126

Resolution of findings of advisability and Resolution authorizing constructing pavement on North Iron Wood Cir., from the north line of 45th St. North to and including the cul-de-sac (east of Rock, north of 45th St. North) 472-84630 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

PETITION

CONSTRUCT STORM WATER DRAIN IMPROVEMENTS FOR OAK CREEK FIRST AND SECOND ADDITIONS, SOUTH OF 21ST STREET, WEST OF GREENWICH. (DISTRICT II)

Agenda Item No.7c.

On September 26, 2006, and November 28, 2006, the City Council approved Petitions for drainage improvements in Oak Creek 1st and 2nd Additions. The developer has submitted new Petitions with revised assessment districts to reflect recent platting activity. The signatures on the new Petitions represent 100% of the improvement districts.

The projects will serve new commercial development located south of 21st, west of Greenwich.

The existing Project budgets are unchanged.

The projects address the Efficient Infrastructure goal by providing public improvements needed for new commercial 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 Petitions be approved; the Resolutions adopted; and the necessary signatures authorized. Motion carried 7 to 0.

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RESOLUTION NO. 08-127

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 302 (south of 21st, West of Greenwich) 468-84234 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

RESOLUTION NO. 08-128

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 303 (south of 21st, West of Greenwich) 468-84235 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

PETITION

RENOVATE BUILDING FACADE AT 105 SOUTH BROADWAY, SOUTHWEST CORNER OF DOUGLAS AND BROADWAY. (DISTRICT I)

Agenda Item No.7d.

On May 16, 2006, the City Council approved a Facade Improvement Petition for an office building at the southwest corner of Douglas and Broadway. After the work began, a number of additional work items were identified related to the repair of the concrete entrances, broken granite, and frieze moldings. The building owner has submitted a new Petition with an increased budget for the cost of the additional work. The signature on the Petition represents 100% of the improvement district.

The building is known as the Broadway Plaza Building. The facade project has repaired the masonry exterior and replaced windows and doors. The street level storefront has been restored to its original appearance.

The existing project budget is \$500,000, with the total paid by special assessments. The revised project budget is \$580,000 with the total paid by special assessments. The program regulations for high-rise buildings do not allow any part of the cost to be a forgivable loan; therefore this project has no impact on that component of the facade program.

This project addresses the Dynamic Core Area goal by facilitating improvements to a privately owned building in the central business district.

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

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. 08-129

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 105 S. Broadway (south of Douglas, west of Broadway) 472-84411 in the City of Wichita, Kansas, pursuant to finds 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, Longwell, Schlapp, Skelton, Williams, and Brewer.

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STREET CLOSURE

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

AUBURN HILLS

STAKING IN AUBURN HILLS 16TH ADDITION, SOUTH OF MAPLE, EAST OF 151ST STREET WEST. (DISTRICT V)-SUPPLEMENTAL

Agenda Item No.9.

The City Council approved the water and sewer improvements in Auburn Hills 16th Addition on March 21, 2006. On November 27, 2007 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

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

Payment to Baughman will be on a lump sum basis of \$10,095 and will be paid by special assessments.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering services needed for the construction of water and sewer 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 Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

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

THE WOODS

THE WOOD ADDITION, EAST OF 151ST STREET WEST, NORTH OF MAPLE. (DISTRICT V)

Agenda Item No. 10a.

The City Council approved the water, sewer and drainage improvements in The Wood Addition on February 14, 2006.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sewer and drainage in The Wood 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 \$64,300 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 water, sewer and 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

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

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SOUTHERN RIDGE

SOUTHERN RIDGE THIRD AND FOURTH ADDITIONS, SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT IV)

Agenda Item No.10b.

The City Council approved the water, sewer and paving improvements in Southern Ridge 3rd & 4th Additions on December 13, 2005.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sewer and paving in Southern Ridge 3rd & 4th Additions. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$54,900 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 water, sewer and 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

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

CHANGE ORDER

STREET PAVING IN AUBURN HILLS 16TH ADDITION, SOUTH OF MAPLE, EAST OF 151ST STREET WEST. (DISTRICT V)

Agenda Item No.11a.

On July 18, 2006, the City Council approved a construction contract with Kansas Paving, Inc. for street paving in Auburn Hills 16th Addition. Storm water runoff from the street drains into and fills an adjacent detention pond. Because of the time duration from the construction of the pond until the paving of the street, the pond banks have eroded and the pond is leaking. The developer has requested that the pond be sealed with a clay liner and that stone rip rap be added to the banks.

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 \$33,241 with the total paid by Special Assessments. The original contract amount is \$696,938. This Change Order plus a previous change order represents 4.93% of the original contract amount.

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

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.

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CHANGE ORDER

MACARTHUR IMPROVEMENT, BETWEEN MERIDIAN AND SENECA. (DISTRICT IV)

Agenda Item No.11b.

On December 11, 2007, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve MacArthur, between Meridian and Seneca. After the work began, it was determined that temporary traffic signals are needed at the intersection of MacArthur and Meridian, to improve traffic flow thru construction. Permanent signals will be installed with the project.

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

The total cost of the additional work is \$27,071 with \$5,411 paid by City General Obligation bonds and \$21,660 paid by Federal grants. The original contract amount is \$3,576,003. This Change Order represents 00.76% of the original contract amount.

This project addresses the Efficient Infrastructure goal by improving traffic capacity and safety along a major transportation corridor.

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.

ACQUISITION OF LAND AT 4900 NORTH HOOVER FOR THE SITE OF THE UPPER ARKANSAS RIVER SEWAGE TREATMENT PLANT. (DISTRICT VI)

Agenda Item No. 12a.

On April 26, 2005 the City Council approved the acquisition of a 20 acre site located on the east side of Hoover Road at approximately 4900 North Hoover as the future site for a north central sewage treatment plant. The site is part of the approximately 460-acre "Kingsbury Tract" owned by the City of Wichita. Kingsbury is currently leased for sand production. Ultimately, the site will be utilized for open space.

The acquisition tract will not impact the sand production lease. The tract has been accounted for in scenarios for the future development of the site. Kingsbury is owned within the general fund. Water Utilities is a self-funded enterprise fund. Therefore, Water Utilities needs to pay the general fund for the land to be transferred. At the time of the original approval in 2005 the value of the tract was estimated at \$5,000 per acre. The area has seen significant development along with increased land values since the original approval. The value of the land is currently estimated at \$10,000 per acre. Based on this amount, \$200,000 will be transferred from Water Utilities to the general fund to affect this transfer.

Funds have been budgeted in the Capital Improvement Program (CIP S-522, Plant Siting Study and Land Acquisition) for this transaction. The funding source will be Water Utility revenues and reserves. A budget of \$202,000 is requested. This includes \$200,000 for acquisition, and \$2,000 for closing costs and title insurance.

This acquisition addresses the goal of ensuring efficient infrastructure by providing reliable sewer service to the Water Utility customers.

The Law Department has approved the deed as to form.

Motion--
--carried

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

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BOARDS/COMMISS. MINUTES OF ADVISORY BOARDS/COMMISSIONS, MARCH 04, 2008.

Board of Electrical Appeals, January 8, 2008
Board of Park Commissioners, January 14, 2008
Wichita Airport Advisory Board, January 14, 2008
Wichita Public Library, January 15, 2008
Wichita Historic Preservation Board, January 14, 2008
Wichita Board of Appeals of Plumbers and Gas Fitters, January 2, 2008

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

PARKING LOTS PARKING LOTS, SIGNAGE AND ENTRY DRIVES.

Agenda Item No. 14.

The 2007 Park Capital Improvement Program (CIP) funding for park signs and the paving and reconstruction of Westside Athletic Field parking lots and entry drives was approved by City Council on December 19, 2006.

Beginning in 2007, the CIP project resolutions with multiple sites were bonded at the site improvement level. However, during the Request for Proposal process, the original resolutions did not allow for improvements (bids) that may exceed the individual bonded amount, but not the total CIP project amount. When the bid exceeds the bonded amount, staff is then required to amend the project for each occurrence. In an effort to curtail rework for Council and staff, the CIP project will continue to be tracked at the site improvement level, to insure compliance, but bonded at the project level.

The bonding resolutions for the 2007 Park CIP for park signs and the paving/reconstruction of parking lots or entry drives were drafted and approved as follows: \$250,000 for signage and \$200,000 for Westside Athletic Field parking lot and entry drive improvements. The attached resolution rescinds the individual resolutions and replaces it with a bonding resolution for the total project amount of \$450,000.

The 2007 Park CIP includes \$450,000 for parking lots and entry drive improvements. The funding source is general obligation bonds.

New park signs and reconstruction or paving of parking lots in parks will improve the quality of parks and help to increase and sustain neighborhood vibrancy and community satisfaction.

The Law Department has approved the bonding resolution as to form.

Motion-- Brewer moved that the bonding resolution be adopted and all necessary signatures authorized.
--carried Motion carried 7 to 0.

RESOLUTION NO. 08-130

A Resolution authorizing the issuance of bonds by the City of Wichita at large for park signs and the paving and reconstruction of parking lots or entry drives, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

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SWIMMING POOLS

SWIMMING POOL IMPROVEMENTS. (DISTRICTS I, II, IV, V, & VI)

Agenda Item No. 15.

The 2007 Park Capital Improvement Program (CIP) funding for improvements to various swimming pools across the city was approved by City Council on December 19, 2006. The following sites and improvements were identified for the 2007 swimming pool improvement projects: Interior bathhouse renovations at Harvest pool, waterslide at Aley pool, diving stand replacement at Boston and Linwood pools, and diaper changing stations at all pools. Chemical controllers will be updated at Aley, Evergreen, Linwood, McAdams, Minisa and Orchard pools.

Beginning in 2007, the CIP project resolutions for with multiple sites were bonded at the site improvement level. However, during the Request for Proposal process, the original resolutions did not allow for improvements (bids) that may exceed the individual bonded amount but not the total CIP project amount. When the bid exceeds the bonded amount, staff is then required to amend the project for each occurrence. In an effort to curtail rework for Council and staff, the CIP project will continue to be tracked at the site improvement level, to insure compliance, but bonded at the project level.

The bonding resolutions for the 2007 Park CIP for swimming pool improvements were drafted and approved as follows: \$15,000 for Harvest Bathhouse; \$10,000 for Aley Pool Waterslide; \$24,000 for Boston Pool Diving Standards; \$14,000 for Linwood Diving Standards; \$28,000 for Swimming Pool improvement-Misc.; \$1,500 for Aley Chemical Controllers; \$1,500 for Evergreen Chemical Controllers; \$1,500 for Linwood Chemical Controllers; \$1,500 for McAdams Chemical Controllers; \$1,500 for Minisa Chemical Controllers; and \$1,500 for Orchard Chemical Controllers. The attached resolution rescinds the individual resolutions and replaces it with a bonding resolution for the total project amount of \$100,000.

The 2007 Park CIP includes \$100,000 for swimming pool improvements. The funding source is general obligation bonds.

The improved pools and mechanical systems will provide on-going family recreational aquatic activities, swimming lessons and competitive swim opportunities for Wichita citizens and visitors to enjoy.

The Law Department has approved the bonding resolution as to form.

Motion--
--carried

Brewer moved that the bonding resolution be adopted and all necessary signatures authorized.
Motion carried 7 to 0.

RESOLUTION NO. 08-131

A Resolution authorizing the issuance of bonds by the City of Wichita at large for swimming pool renovation and improvements, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

IRRIGATION SYS.

IRRIGATION SYSTEMS REPLACEMENT AND UPGRADE. (DISTRICTS I, II, AND III)

Agenda Item No. 16.

The 2007 Park Capital Improvement Program (CIP) funding for irrigation system renovation and replacement at various locations was approved by City Council on February 6, 2007. The following sites were identified for irrigation system renovation and replacement for the softball, baseball, football, and soccer fields located at South Linwood Park, Stryker Soccer Complex, and Planeview Park.

Beginning in 2007, the CIP project resolutions with multiple sites were bonded at the site improvement level. However, during the Request for Proposal process, the original resolutions did not allow for improvements (bids) that may exceed the individual bonded amount but not the total CIP project amount. When the bid exceeds the bonded amount, staff is then required to amend the project for each

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occurrence. In an effort to curtail rework for Council and staff, the CIP project will continue to be tracked at the site improvement level, to insure compliance, but bonded at the project level.

The bonding resolutions for the 2007 Park CIP for irrigation system renovation and replacement was drafted and approved as follows: \$70,000 for South Linwood Park; \$10,000 for Stryker Soccer Complex; and \$120,000 for Planeview Park. The attached resolution rescinds the individual resolutions and replaces it with a bonding resolution for the total project amount of \$200,000.

The 2007 Park CIP includes \$200,000 for funding for irrigation system renovation and replacement. The funding source is general obligation bonds.

The investment in irrigation systems on athletic fields will help to ensure quality turfgrass and safe playing surfaces. This relates directly to satisfying citizens with recreational opportunities for quality of life as players and teams receive a positive return for their fees.

The Law Department has approved the bonding resolution as to form.

Motion--
--carried

Brewer moved that the bonding resolution be adopted and all necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 08-132

A Resolution authorizing the issuance of bonds by the City of Wichita at large for irrigation system renovation and replacement, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

GRANT APPLICATION NEIGHBORHOOD NETWORKS GRANT APPLICATION. (DISTRICT I)

Agenda Item No. 17.

The United States Department of Housing and Urban Development issued a notice of fund availability for housing authorities to expand or create neighborhood network centers. The objective of the center is to improve the economic self-sufficiency for public housing residents. HUD is looking for proposals that involve partnerships with organizations that will supplement and enhance the services offered to residents.

Because the Wichita Housing Authority does not operate family public housing developments which have community centers, the Atwater Community Education staff has proposed that a computer center be established at the Atwater NCH to serve the public housing population. As of August 2007 there are 173 single-family public housing units in the proposed area around the Atwater NCH, which is also in the New Communities Initiatives focus area. These single-family housing units house 728 residents 504 of which are under the age of 18. The largest age group living in these units is between the ages of 5 and 13. Eight-seven percent of the 173 families have income that falls below the median household income for the target area and 56% below the poverty level.

The Atwater Computer Learning Center (ACLC) will use 21 computers to assist public housing residents in becoming self-sufficient by providing educational support, computer training, and job search assistance. Its objectives for the area residents will be to help increase high school graduation rate, improve academic achievement, help develop computer skills, and provide opportunities to find employment. The center will also make access to the Internet available to participants which will address the disproportionate rate of poor families who have such access. These goals will be accomplished through the use of staff, volunteers and partnering organizations who will offer assistance in supervising the center, instructing the classes and conducting workshops, in addition to providing services and resources for participants.

Both Wichita State University and Butler County Community College have submitted support letters pledging to assist ACLC participants with their goal of a college education by providing their expertise.

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Staff will assist participants with submitting admission forms and applying for financial aid for university or community college admissions.

The application is due no later than March 14, 2008.

The application request is for \$300,000 used over a 3-year period, which will require a 25% match (\$75,000). The match requirement will be met by calculating the value of the space used by the Atwater computer-learning center (ACLC) at \$15,000/year and the Atwater staff salary at \$10,000/year. A sustainability plan will be submitted with the application, which includes applications for grants and solicitations for corporate sponsorship.

This will impact the Economic Vitality and Affordable Living goal.

Motion--

Brewer moved that the submission of an application for a Neighborhood Networks Program grant to be implemented at the Atwater Neighborhood City Hall (NCH) be authorized and the necessary signatures authorized. Motion carried 7 to 0.

--carried

CHILDCARE LICENS. CHILDCARE LICENSING GRANT APPLICATION.

Agenda Item No. 18

The Environmental Services Department conducts inspections of childcare facilities and provides education for childcare providers within Sedgwick County on behalf of the Kansas Department of Health and Environment. KDHE provides an annual grant to fund these activities, and has solicited Environmental Service's application for state fiscal year 2009 (July 1, 2008 through June 30, 2009.)

The City has conducted childcare licensing and education services for in excess of thirty years, providing a local point of contact for citizens and providers. Local operation of the program also enhances coordination with other agencies involved, such as the Fire Department and Office of Central Inspection. Environmental Services staff members enforce state regulations and utilize state enforcement mechanisms, as appropriate.

This action furthers the Council's "Provide a Safe and Secure Community" goal via inspections and regulation of childcare facilities.

The grant request for state fiscal year 2009 totals \$312,367. The 2008 Adopted budget includes two positions and related costs in support of this program. These General Fund costs, estimated to be up to \$201,000 are offset by an estimated \$128,000 in program fees. State funding and locally generated fees are projected to offset 86% of the total program cost of \$513,239. KDHE will determine the grant award amount and notify the City of Wichita.

The grant agreement will be reviewed by the Department of Law upon receipt, for approval as to form, and submitted to the Council for acceptance.

Motion--

Brewer moved that the grant application and the grant award if applicable, be approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

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RESOLUTION

RESOLUTION-21ST STREET NORTH STREETScape, LANDSCAPE AND DISTRICT GATEWAY IMPROVEMENTS, FROM I-135 TO HILLSIDE. (DISTRICT I)

Agenda Item No. 19.

These improvements are identified as implementation action items in the 21st Street North Corridor Revitalization Plan adopted by City Council in 2005. These streetscape improvements are intended to create a unique and fresh identity/community character as part of the proposed East End Multicultural District. Specifically, these enhancements are described in detail in the Plan (pgs. II-42 & 43) as follows:

- Street lighting enhancements (high level and pedestrian level light fixtures and banners)
- Benches and trash receptacles
- Street trees at regular intervals along the length of the corridor
- Vertical district gateway elements near each end of the corridor (Hillside and 21st Street; Minneapolis and 21st Street)
- Special landscape treatments, including focused landscape materials and hardscape materials (e.g. crosswalk paver stone treatments) near the district gateways and at core retail, commercial or institutional intersections.

A Resolution has been prepared to provide permanent project financing.

Funding for this project (not to exceed \$200,000) is identified in the 2007-2016 Capital Improvement Program. The funding source is general obligation bonds under the authority of City of Wichita Charter Ordinance No. 156.

The project will address the Core Area and Neighborhoods goal by implementing action items contained in the 21st Street North Corridor Revitalization Plan intended to promote the revitalization of this segment of the 21st Street North corridor.

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

Motion--
--carried

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

RESOLUTION NO. 08-133

A Resolution authorizing the issuance of bonds by the City of Wichita at large for design. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer. Construction of district gateways, streetscaping and landscaping enhancements on 21st Street North between I-135 and Hillside, presented.

COX COMM. KS

PURCHASE OPTION, COX COMMUNICATIONS KANSAS, LLC. (DISTRICT II)

Agenda Item No. 20.

On December 10, 2002, the City Council approved the issuance of \$6,645,000 in Industrial Revenue Bonds, Series IV-2002 for the benefit of Cox Communications Kansas, LLC. Bond proceeds were used for the purpose of acquiring, constructing, and equipping a new 35,000 s.f. single story call center facility, located at 9824 E. 35th Street North, in Wichita. The Bonds are secured, in part, by a Lease Agreement with Cox Communications Kansas LLC, ("Tenant").

Under the provisions of the Lease Agreement the Tenant has the option, if all outstanding bonds and Trustee Fees have been paid, to purchase the facility from the City of Wichita for the sum of \$1,000. The Bonds have matured, and the City received notice from the Tenant of the company's intention to exercise its purchase option.

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Under the terms of the Lease, upon receipt of written notice, the City is required to convey its interest in the property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds. The Series IV-2002 Bonds have been paid in full as of February 1, 2008. Subject to receiving proof that all applicable conditions have been met, it is now appropriate for the City to deliver the instruments needed to deed the bond-financed property back to Cox Communications Kansas LLC and terminate the IRB lease. The City has already received payment of the \$1,000 purchase option price.

The purchase price is \$1,000 and other considerations as listed under the purchase option provision of the Lease Agreement. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

Economic Vitality and Quality of Life. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

The City is contractually bound to convey the IRB Project property to the Tenant once all the conditions established in the Lease have been met. The City Attorney's Office has approved the form of the attached Resolution to authorize the execution of the Special Warranty Deed, Bill of Sale, and Termination of Lease Agreement (each in substantially the form attached to the Resolution), and the delivery of such documents following satisfaction of applicable conditions.

Motion--

Brewer moved that the Resolution approving the Special Warranty Deed, the Bill of Sale, and the Termination of Lease Agreement be adopted and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-134

A Resolution authorizing the City of Wichita, Kansas, to convey certain real property to Cox Communications Kansas, LLC and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

POLICE EOD

POLICE EXPLOSIVES ORDNANCE DISPOSAL FACILITY, (EOD).

Agenda Item No. 21.

On April 4, 2006, City Council authorized the purchase and improvements on a parcel of land in southwest Sedgwick County for use as a police explosives facility.

On June 13, 2006, City Council approved a Design/Build Project for the police explosives facility.

On August 8, 2006, City Council approved a Design/Build contract with Utility Contractors for the development of the explosives ordnance disposal facility.

On November 6, 2007, City Council approved an extension for the Design/Build Project for the explosives ordnance disposal facility.

Construction completed as part of Phase I included fencing, explosives storage bunkers, access road to the bunkers and operations areas, electrical, and earthen berms to contain controlled destruct exercises.

Construction under Phase II of this project will include a pre-engineered building containing a shop/storage area, equipment and material storage, outside emergency shower, restrooms, and training room. The building will be provided with a water well, propane accessories, sanitary lagoon, and concrete paving. The facility will be ADA compliant and meet or exceed all code requirements. In addition to the pre-engineered building will be one railroad tie pit structure and asphalt millings pad with pipe bollards.

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Under the August 8, 2006, City Council action which approved a contract with Utility Contractors for the development of the EDO Disposal facility a change order was negotiated for the construction of the Phase II development at \$349,905.18.

The Adopted 2007 – 2016 Capital Improvement (CIP) Program includes \$350,000 for the completion of this project. (Project #436605, OCA #793008)

Construction and staffing of the EOD facility will impact the Provide a Safe and Secure Community Goal by providing a safe location for destruction of hazardous devices that would otherwise have to be dealt with in populated areas.

The Change Order has been approved as to legal form by the Law Department.

Motion--
--carried

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

FORMS 5701

APPROVE FORMS 5701 IN RELATION TO EMPLOYMENT/PAYROLL TAX AUDIT OF CITY.

Agenda Item No. 22.

The Internal Revenue Service ("IRS") is examining City's federal employment and payroll tax matters for the calendar quarters in fiscal year 2004. On December 18, 2007, Council reviewed and approved a request to extend the period for assessment by 12 months from this coming April. Part of the reason for the extension was to allow additional time for the auditors and City Staff to analyze several potential adjustments proposed by the auditors on IRS Form 5701, and preserve normal administrative appeal routes for any unresolved disputes. Following review by Staff of the proposed adjustments, and identification of two minor corrections on the adjustment relating to employer-provided vehicles, it appears the proposed adjustments covered by the Forms 5701 can be accepted, to resolve the covered issues on a largely agreed basis. Accordingly, the matter is coming before Council at this time for approval of the Forms 5701.

Seven specific types of adjustments are covered by the Forms 5701. Six are adjustments increasing the amounts that were subject to withholding, and the seventh is a small, offsetting refund. A summary explanation of the issues (also covered in greater detail in the Forms 886-A attached to the Forms 5701) is as follows:

1. Clothing allowance: The proposed adjustment is a \$211,170 addition to amounts subject to withholding, for a) the value of employer-provided work clothing adaptable to personal use, and b) the value of cash allowances or reimbursements for work clothing where the actual cost was not substantiated under the IRS "accountable plan" rules. The associated withholding liability based on the adjustment will be approximately \$52,793.
2. Personal use of vehicles: The proposed adjustment is a \$26,728 addition to amounts subject to withholding, and generally relates to the value of "commuting" use of employer-provided, take-home vehicles. The associated withholding liability based on the adjustment will be approximately \$6,682.
3. Employer Provided Cell Phones: The proposed adjustment is a \$26,418 addition to amounts subject to withholding. Since the 2004 audit period, the City has widely implemented a revised policy of providing a taxable cell phone allowance to employees who need cell phones for their work, rather than providing the cell phones directly. The associated withholding liability based on the adjustment will be approximately \$6,605.

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4. Internet Reimbursements: The proposed adjustment is a \$4,297 addition to amounts subject to withholding, and generally arises in relation to access provided for IT analysts who need home internet access for remote operations. The associated withholding liability based on the adjustment will be approximately \$1,075.
5. Relocation/Moving Expense: The proposed adjustment is a \$3,727 addition to amounts subject to withholding, and arises from travel to Wichita, temporary quarters and house-hunting expenses for two employees who were recruited to Wichita from other areas. The associated withholding liability based on the adjustment will be approximately \$932.
6. Excellence in Public Service Award: The proposed adjustment is a \$2,500 addition to amounts subject to withholding, and arises because one of the three recipients of this award (conferred annually on one employee of the City, one employee of Sedgwick County and one employee of USD No. 259) is a City employee and the City becomes the "payor" in the course of administering the program. The associated withholding liability based on the adjustment will be approximately \$625.
7. Refund: The seventh proposed adjustment is an offsetting refund for overpayment of employer liabilities, in the amount of \$3,585.55.

The IRS auditor has indicated that the intention of the audit is to settle the withholding issues with the City, but not to pursue them as individual adjustments on the returns of employees that received the benefits. Accordingly, it is not expected that any of the individual employees will be adjusted for 2004. As practices are changed going forward, employees who continue to receive the various benefits in issue will have an amount added to Form W-2 and subjected to withholding to account for the taxable status of the benefit. For the various issues, the prospective impact may be:

Clothing Allowance Issue – Approximately 361 Firefighters and 336 Police officers would be affected, based on 2004 numbers;

Cell Phones – The number of employees impacted will be greatly diminished from 2004, because the City already switched to allowances on most cell phones, but some OCI Inspectors, Engineers and Police officers who are still furnished phones, will be affected;

Employer Provided Vehicles – Approximately 6 Park/Golf employees, the Fire Chief (if the Chief's car remains unmarked), 4 Park/Maintenance staff, and 30 Police Officers would be affected, based on 2004 numbers. Some Public Works and Water staff may also be affected.

Internet Reimbursements – 11 IT/IS staff would be affected, based on 2004 numbers;

Relocation/Moving Expenses – This issue was only identified for 2 employees in 2004, and may affect the new Manager when selected, or other key staff for whom "nationwide searches" are conducted.

Excellence in Public Service Award – This issue will affect one City employee annually, unless the County or USD, or some other non-City party, becomes the payor for the City Employee recipient.

The net additional withholding liability as a result of the proposed adjustments will be slightly under \$65,130. In the context of overall City operations and the wide range of issues reviewed in the audit, the proposed adjustments represent a minor degree of error. However, corrective steps have been identified for each category of adjustments, going forward.

Internal Perspective.

The City Attorney's Office has reviewed the auditors' requests for information and the City's responses throughout the course of the audit, and has also reviewed the sections of the Internal Revenue Code and Regulations relied upon by the auditors for each of the proposed adjustments, as well as interpretive federal case law. Based on this review, it appears appropriate for the City to concur with the Forms 5701 as presented to the Council herewith.

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Motion--
--carried

Brewer moved that Forms 5701 be approved and the Mayor authorized to sign. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ FEBRUARY 12 AND 26, 2008)

- a. SUB 2005-58 Plat of Foliage Center Addition located on the northwest corner of 13th Street North and Webb Road. (District II)

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. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

- b. SUB 2007-91 Plat of Allen Williams Addition located south of Harry and on the east side of Hoover Road. (District IV)

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. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

- c. Public Hearing and Tax Exemption, Carlson Hydraulics. (District IV)

An ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Carlson Hydraulics, so exempted. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

UNFINISHED BUSINESS

REED-A-WAY

REVIEW OF DENIAL OF MANUFACTURED HOME PARK ANNUAL LICENSE RENEWAL, REED-A-WAY MOBILE HOME PARK, 2635 SOUTH HYDRAULIC. (DISTRICT III)

Kurt Schroeder

Office of Central Inspection reviewed the item.

(Vice-Mayor Fearey momentarily absent)

Agenda Item No. 24.

Reed-A-Way Mobile Home Park was first established in the early 1950's. The property is zoned "SF-5" Single Family, and has operated as a legal non-conforming mobile home park since 1964. The Park was originally developed and licensed for 50 spaces. More recently, the mobile home park has been licensed for 44 spaces. Presently, there are 30 mobile homes in the park, 25 of which are occupied.

In July 2006, the City amended its Manufactured Home Park Ordinance (Chapter 26.04 of the Code of the City of Wichita), adding new park maintenance and licensing standards, as well as new provisions for denial and/or revocation of manufactured home park licenses. On September 24, 2007, the Office of Central Inspection (OCI) refused to renew the annual manufactured home park license for Reed-A-Way Mobile Home Park (Park). OCI's license denial, issued pursuant to Sections 26.04.35 and 26.04.115 of Title 26 (Notice of Violation, Attachment 1), was based on the significant number of housing (dwelling

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unit) and environmental maintenance code violations present in the Park. The annual license for the Park officially expired on October 2, 2007.

By letter dated October 5, 2007, the Park owners appealed OCI's refusal to renew the manufactured home park license. On November 20, 2007, the City Council conducted an appeal hearing as required by Section 26.04.038 of the Code of the City of Wichita, and voted to defer final action on the Park's license for 90 days. A condition of deferral was that no new manufactured homes were permitted to be moved into the Park during the deferral period. The Council's deferral was also contingent upon submission of a realistic and reasonable plan for Park improvements to the Superintendent of Central Inspection within 30 days, including a longer-term business plan.

Since November 20, 2007, OCI staff has performed several follow-up inspections in the Park to verify progress on code compliance. Meetings between the Park's owners and staff were conducted in OCI on December 21, 2007, January 25, 2008 and February 19, 2008, and code compliance issues and plans for future Park improvements (both physical and operational) were reviewed and discussed.

As of February 20, 2008, 13 of the 16 minimum housing code cases active on November 20, 2007 had been resolved by repair or removal, and repair work was progressing on the remaining three (3) housing code cases. One (1) housing code case had a single remaining exterior violation left to correct. In addition, the Park owners had purchased a couple of the Park's existing mobile homes and were repairing them. As of February 20, 2008, eight (8) of the 10 environmental code cases active on November 20, 2007 had been resolved, and work was progressing on the remaining two (2) cases. The Park owners have committed to the following per their STATEMENT OF INTENT (Attachment 2), proposed new Park Rules and Regulations (Attachment 3), and proposed new Requirements Regarding New Mobile Homes (Attachment 4), as submitted to the Superintendent of Central Inspection:

- Resolution of all remaining housing and/or environmental code violations in the Park within 90 days (one tenant-owned home will be need to be purchased and removed, and the tenant relocated – other open code cases should be resolved within 30 – 60 days);

- Immediate reduction of the number of licensed spaces in the Park from forty-four to thirty-five;

- Installation of new solid screening along Hydraulic, as approved by the City, which will include solid six – eight foot tall fencing and landscaping (bids obtained and provided – see Attachment 5) within 180 days of license renewal;

- Hiring of a professional Park manager, who will live on-site, within 90 days of license renewal;

- Immediate adoption, implementation and enforcement of stricter tenant screening guidelines and new Park Rules and Regulations;

- Implementation of minimum standards for manufactured homes moved into the Park, limited to 1980 models or newer;

- Pre-inspection and approval of any units moved into the Park, in consultation/conjunction with OCI inspection staff.

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 and Neighborhoods.

The Park owners have been properly notified of the code violations in the Park, and of the reasons for denial of the license. The appeal hearing was conducted by the City Council as required by Section 26.04.038 of the Code of the City of Wichita. The Park owners have been properly notified of the results of the November 20, 2007 appeal hearing, and have been notified of the March 4, 2008 Council review hearing. The City Council may sustain, reverse or modify the denial of the license.

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- Council Member Skelton Council Member Skelton asked if it would be feasible to ask in our code language, 15 or 20 years because time is going to continued to march on and in 30 years we would not want 1990 model trailers moved into any mobile home parks within the City.
- Kurt Schroeder Office of Central Inspection stated that if that is the direction Council would like to follow, they could prepare some amended language and bring back to Council. Stated right now it says that it just has to be a HUD certified home, which is about 1976.
- Council Member Skelton Council Member Skelton stated to expedite this concern, asked if there would be any objection with the Council to have Staff work on that specific issue within our larger manufactured mobile home park.
- Council Member Gray Council Member Gray stated he does not know if he objects to it directly but there has to be a reasonableness applied to it whether or not one of us choose to live in a mobile home, which is of a certain age or not. Stated we do not limit people on how old their vehicles are that we allow driving on our streets and this is a mobile home on private property.
- Vice-Mayor Fearey Vice-Mayor Fearey stated that we would just be looking at the mobile homes that are going to be moved and that you could not move one into a park that was over 20 years old.
- Kurt Schroeder Office of Central Inspection stated that is the way the ordinance is currently written.
- Vice-Mayor Fearey Vice-Mayor Fearey stated the mobile home parks in her district that seem to have the most problems are when they are moving very old mobile homes in there and she thinks the Council ought to take a look at that when we put the 1976 in there and when we put that in, that was not very old. Stated she feels that the Council needs to take a look at it because there is concern in her district about these homes that are being moved in and if the Council comes up with some kind of inspection process that if a home is going to be moved, it has to be looked at, because they are moving junk around from one place to another that should not be lived in.
- James Thompson Mr. Thompson stated he represents the owners of the Mobile Home Park and Dan and Cindy Leach. Stated this community is now going to become a closed community and before somebody can move in, they have to get approval from management. Stated if someone wants to sell the mobile home that they already have in the park, that person will have to go before management to get approved before going in. Stated the rolling 20 for Reed A-Way, is going to be a good improvement for the park in that it will allow them to control the homes that are coming in and make sure that they are up to standard and as time rolls on and they get older homes that are still there, those homes will have to maintain their standard or they will face an eviction process. Stated there will be no rentals of the mobile homes and you will have to buy it to live there and be approved. Stated that the on-sight manager will be a good addition and the Leaches have done a good job in going in and starting to repair things and property that is not even theirs with their own money and bringing them up to current standards and forcing those tenants to maintain that standard from here on out. Stated they have done what the Council has requested.
- Council Member Skelton Council Member Skelton stated he has seen a drastic change in the mobile home park and there is some work that still needs to be done such as the blue unit with a lot of bulk waste. Stated that he appreciates the client's efforts and Mr. Thompson's efforts and appreciates Mr. Thompson coming back to him today with the statement of intent and it represents a marked change in the philosophy of how this park has been run in the past and this is what we need down there. Stated the rules and regulations are an important part of that and supports the rules and regulations; supports the drug and crime free lease addendum, which is an important tool that can be utilized; and the requirements regarding new mobile homes that he is willing to comply with.

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- Motion-- Skelton moved to reverse the action of the Superintendent of Office of Central Inspection to deny renewal of the manufactured home park license for Reed-A-Way Mobile Home Park located at 2635 South Hydraulic, based on substantial improvements made to the Park and to mobile homes within the Park, with the past 90 days, and conditioned on the following: Resolution of any remaining housing and/or environmental code violations in the Park by no later than May 7, 2008; permanent reduction of the number of licensed spaces in the Park from forty-four to thirty-five; employment of a professional Park manager, who will live on-site, within 90 days; immediate adoption, implementation and enforcement of the new Park Rules and Regulations, including the Rental Agreement Addendum for a Drug-Free/Crime-Free Property; implementation of minimum condition standards for manufactured homes moved into the Park, limited to twenty year old models or newer; pre-inspection and approval of any units moved into the Park, in consultation/conjunction with Office of Central Inspection staff; installation of new solid screening fence along Hydraulic, as approved by the City, which will include a solid six-eight foot tall cedar fence and evergreen landscaping by no later than September 5, 2008; and no rental units allowed into the park.
- Council Member Skelton Council Member Skelton asked if it would be acceptable and reasonable to do this renewal in a year, when we look at it again per the normal licensing procedures.
- Kurt Schroeder Office of Central Inspection stated what was said earlier was that everything be completed in about six months, so you have the option to make the renewal for six months or the typical year.
- Amended Motion-- Skelton amended his motion to include, taking a look at this again in six months for renewal, as his last
--carried condition. Motion carried 7 to 0.

UNSAFE STRUCTURE REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES, 2612 EAST 13TH STREET NORTH. (DISTRICT I)

- Kurt Schroeder Office of Central Inspection reviewed the item.
- Agenda Item No. 25
- This property was before the Board of Code Standards and Appeals (BCSA) on May 5, 2007. No one appeared to represent the property, no repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.
- On July 17, 2007 this case was before City Council. City Council directed that the owner be granted an additional sixty days to complete the exterior repairs. If repairs were not completed, staff was directed to proceed with condemnation, demolition and removal of the structure.
- On February 6, 2008 Council Member Lavonta Williams directed staff to bring this back before City Council within thirty days. Council Member Williams also directed the owner to place half of the estimated cost of demolition into escrow with the City, and that full payment for asbestos survey and removal is made.
- Staff made an inspection of the property on February 14, 2008. No repairs have been made to the structure. The structure has an open west basement window and first floor window. A large dumpster containing construction debris was on the premises. At the time of inspection, the premise conditions were compliant to city code.
- As of February 19, 2008, payments have not been received for asbestos survey and removal, and no escrow funds have been provided by the owner. The 2007 taxes are delinquent in the amount of \$403.56, which includes specials. There is a 2007 special assessment for board up in the amount of \$279.49.
- Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development

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Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

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: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

The owner/s has been informed of the date and time of the hearing.

- Council Member Williams Council Member Williams stated she has noticed a tremendous change in the last couple of weeks to this property.
- Motion-- Williams moved to allow 30 days for completion of the work and pay off assessments that are owed to the City today and bring taxes back to par with the county.
- Vice-Mayor Fearey Vice-Mayor Fearey asked if the Council could require that the assessments be paid with a bank check so that we know it is a good check. Stated she would like to have that added to the motion.
- Amended Motion-- Williams amended her motion to include that the assessments be paid with a bank check. Motion
--carried carried 7 to 0.

RESOLUTION NO. 08-135

A Resolution finding that the structure/s located on Lots 41, 43, 45 and 47 on Estelle Avenue, Rose Hill Addition to the City of Wichita, Sedgwick County, Kansas, commonly known as 2612 E. 13th Street North is/are unsafe or dangerous and directing the structure/s to be made safe and secure or removed, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Schlapp, Skelton, Longwell, Williams and Brewer

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NEW BUSINESS

ASSESSMENTS

PUBLIC HEARING ON PROPOSED ASSESSMENTS FOR TWENTY (20) PAVING PROJECTS IN JULY, 2008 BOND SALE SERIES 794 (DISTRICTS I, II, III, I V, AND V)

Jim Armour

City Engineer reviewed the item.

(Council Member Skelton momentarily absent)

(Mayor Brewer momentarily absent, Vice-Mayor Fearey in the chair)

Agenda Item No. 26.

The Council was notified on February 5, 2008 that the proposed assessment rolls were on file for public inspection in the Department of Finance.

Notice of hearing letters were published February 8, 2008 in the Wichita Eagle being not less than ten days prior to the date of hearing. All affected property owners have been notified in writing of both the informal and formal public hearing regarding the proposed special assessments were mailed to owners on February 8, 2008. Department of Finance and Public Works staff held an informal hearing February 25, 2008 at 11:00 a.m. for the paving projects.

Statements of Special Assessment will be mailed to the property owners on March 21, 2008. The property owners have 30 days from date of statement 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.

These projects were initiated pursuant to provisions of K.S.A. 12-6a01 et seq. as amended. All of the projects were 100% petitions with the exception of:

Paving Projects:

472-84215 Paul	64.44% Petition	Improving 30 th St., Custer, St.
472-84298	54.22% Petition	Improving Mascot
472-84299 Lane to Arapaho	61.22% Petition	Improving University, Maple
472-84416 Osage, Osage Cir	75.67% Petition	Improving 50 th St. South,

Mayor Brewer1

Mayor Brewer inquired whether anyone wished to be heard.

Daniel J. Phillipi

Mr. Phillipi stated he resides at 1440 West 34th Street North, stated has a lot on 29th Street and learned that there are 40 different people on Mascot and 39 of them touch the property and he does not, that is being paved. Stated it will not add any value to his property and he will never use that street and never has used that street. Stated he faces 29th Street and they are trying to assess \$4,759.35 to his property, which will not add one penny worth of value. Stated that he is asking that be distributed between the 39 people that are actually on that street, which will only be another \$122.00 per person.

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Jim Armour

City Engineer reviewed the map and benefit district boundary lines which is drawn according to the state statutes. Stated if we did not include this lot, they would be in violation of the state regulations on how to draw a benefit district boundary line.

Motion--
--carried

Skelton moved that the Public Hearing be closed; the proposed assessments approved; and the ordinances placed on first reading. Motion carried 7 to 0.

PAVING PROJECTS:

a. (490-136/472-83626

ORDINANCE

An ordinance improving Sunview, Ellis, Marie & 44th Street South West of Hydraulic, South of 44th Street South. Introduced and under the rules laid over. (District III)

b. (490-127/472-84105)

ORDINANCE

An ordinance improving Aksarben, Autumn Ridge, Kiwi, & Decker North of 13th, West of 135th Street West. Introduced and under the rules laid over. (District V)

c. (490-048/472-84206)

ORDINANCE

An ordinance constructing an accel/decel lane on the south side of 21st Street North South of 21st, West of Greenwich. Introduced and under the rules laid over. (District II)

d. (490-057/472-84215)

ORDINANCE

An ordinance improving 30th St., Custer, Chase, St. Paul South of Pawnee, West of Meridian. Introduced and under the rules laid over. (District IV)

e. (490-110/472-84227)

ORDINANCE

An ordinance improving Jade ave., Sunflower Dr., Cedardale Ave., South of 63rd St. South, West of Clifton. Introduced and under the rules laid over. (District III)

f. (490-059/472-84241)

ORDINANCE

An ordinance improving 26th St.Circle North including the cul-de-sac South of 29th St. N., West of Greenwich. Introduced and under the rules laid over. (District IV)

g. (490-121/472-84246)

ORDINANCE

An ordinance improving Mainsgate, Eagle, Woodridge, Davin Cir., including the emergency access easement, cul-de-sac & sidewalk north of 21st, west of 127th St. East, (District II)

h. (490-090/472-84271)

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ORDINANCE

An ordinance improving Tara Falls, Tara Falls Ct., Pawnee, Willowgreen/Willowgreen Cir., Willowgreen Ct., Casa Bella including the cul-de-sac North of Pawnee, West of 127th St. East. Introduced and under the rules laid over. (District II)

i. (490-107/472-84297)

ORDINANCE

An ordinance improving Zimmerman Court including the cul-de-sac (North of Harry, West of 127th St. East. Introduced and under the rules laid over. (District II)

j. (490-085/472-84298)

ORDINANCE

An ordinance improving Mascot North of 29th Street North, West of Arkansas Ave., Introduced and under the rules laid over. (District VI)

k. (490-086/472-84299)

ORDINANCE

An ordinance improving University, Maple Lane to Arapaho South of Maple, East of Ridge. Introduced and under the rules laid over. (District V)

l. (490-120/472-84324)

ORDINANCE

An ordinance improving Marblefalls, Hobby, Mantane & including sidewalk North of 45th St. North, West of Hillside. Introduced and under the rules laid over. (District I)

m. (490-096/472-84364)

ORDINANCE

An ordinance improving Bayside Ct., West St., Bayside, Paradise/Paradise Ct., including the cul-de-sac West of West St., North of 21st., Introduced and under the rules laid over. (District V)

n. (490-148/472-84393)

ORDINANCE

An ordinance improving Onewood, Cityview, City View Cir., City View Ct., including the cul-de-sac South of Maple, East of 151st St. West. Introduced and under the rules laid over. (District V)

o. (490-119/472-84404)

ORDINANCE

An ordinance improving Wilson Estates Ct., Water Distribution No. 448-90191 & Lateral 89, Main 22, war industries sewer 468-84181 South of 21st, West of Webb. Introduced and under the rules laid over. (District II)

p. (490-125/472-84416)

ORDINANCE

An ordinance improving 50th St. South, Osage/Osage Circle, including the cul-de-sac & sidewalks South of 47th Street South, East of Seneca. Introduced and under the rules laid over. (District IV)

q. (490-123/472-84423)

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ORDINANCE

An ordinance improving Mt. Vernon, Triple Crown, Mt. Vernon Ct., including the cul-de-sac & sidewalks East of 127th Street East, North of Pawnee. Introduced and under the rules laid over. (District II)

r. (490-122/472-84425)

ORDINANCE

An ordinance improving Michelle West of 127th Street East, North of Pawnee. Introduced and under the rules laid over. (District II)

s. (490-138/472-84471)

ORDINANCE

An ordinance constructing pavement on the south 100 feet of the north-south alley North of Pawnee, between Ida and Laura. Introduced and under the rules laid over. (District III)

t. (491-022/472-84536)

ORDINANCE

An ordinance facade improvements at 208 S. Market East of Market, South of William. Introduced and under the rules laid over. (District III)

2009 LEGIS. AGENDA 2009 FEDERAL LEGISLATIVE AGENDA.

Dale Goter

Government Relations Manager reviewed the item.

Agenda Item No. 27.

Each year City Departments are asked to submit requests for federal legislative assistance. The City Council was provided with staff's list of requests at its February 12, 2008 Workshop. The Council reviewed the list and discussed adding other issues of importance to the list and then prioritizing the requests. The Federal Legislative Agenda will be provided to the Federal Delegation in March for review and consideration.

The Proposed Federal Legislative Agenda contains requests for appropriations relating to rail and surface transportation, drainage, public safety, park and recreation, aviation and water quality. Based upon the direction provided by the City Council, staff will finalize the 2009 Federal Legislative Program and prepare a document describing the requests. This document will be provided to the Federal Delegation in March 2008. Communication with the Delegation will continue throughout the year to assure that the City's needs are communicated effectively and appropriate information is provided.

Some federal requests require local matching funds. Historically, the City has identified a variety of sources to provide local matching funds when necessary. City staff will attempt to provide matching funding as necessary based upon Council approval.

On January 4, 2006, the City Council adopted five (5) goals for the City of Wichita. They 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 and Vibrant Neighborhoods. The issues in this Proposed Federal Legislative Agenda address all five goals.

Should federal funding be secured, contracts and/or memorandums of understanding will be initiated as appropriate.

Mayor Brewer

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

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Motion--carried

Brewer moved that the 2009 Federal Legislative Program be approved. Motion carried 6 to 1, (Nay-Skelton).

PETITION

**PETITIONS TO RENOVATE BUILDING FACADES IN THE CORE AREA.
(DISTRICTS I AND VI)**

Allen Bell

Urban Development Director reviewed the item.

Agenda Item No.28.

On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for property owners to improve their buildings. Low interest, fifteen-year loans were made available to owners of buildings with frontage on Douglas Avenue, between Seneca and Washington.

On March 21, 2006, as part of approving two facade improvement projects, the City Council asked that the Facade Improvement Program be returned on a future agenda to consider expanding the program boundaries and providing additional funding. On August 1, 2006, the City Council approved expanding the program to target the commercial areas listed below:

- Downtown Self-Supporting Municipal Improvement District (SSMID)
- Center City
- Douglas, from Washington to I-135
- Delano
- Midtown
- 21st Redevelopment Area (International Marketplace)
- South Central (South Broadway area)
- McAdams
- Central Northeast

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. The request would result in the issuance of special assessment debt against the subject buildings. The seven projects have received approval of the Design Review Committee and the Historic Preservation Board. The buildings are:

- The Kaufman Building – 212 South Market
- The Landmark Square Building – 212 North Market
- The Farmers and Bankers Building – 200 East 1st
- The Orpheum Building – 200 North Broadway
- The Petroleum Building – 221 South Broadway
- Sutton Place – 209 East William
- SC TelCom – 125 North Market

The City has approved many facade improvement projects since the creation of the Facade Improvement Program, including some high-rise building facades. This request is unique due to the size of the request. Total cost for all the facade improvements combined is projected to be \$7,831,690 (exclusive of financing costs).

The amount is slightly different than the amount presented to the City Council on January 15th. The table below itemizes the costs.

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BUILDING PROJ MGR	CONSTRUCTION	ARCHITECT& ENGINEER	REAL DEV
10% CONTINGENCY	PW ADMIN		
FEE (2%)	TOTAL		
SC TelCom	\$ 3,726,983	\$ 111,809	\$ 124,120
\$ 4,423,566			\$ 383,879
Sutton Place	1,805,146	54,154	60,117
Petroleum	445,387	13,362	14,833
Orpheum	167,433	5,023	5,576
Landmark	285,554	8,567	9,510
Farmers & Bankers	142,921	4,288	4,760
Kaufman II	25,000	750	833
TOTAL \$	6,598,424	\$ 197,953	\$ 219,749
\$ 7,831,690			\$ 679,638
			\$ 76,775
			185,930
			37,186
			2,142,533
			528,632
			198,727
			338,925
			169,634
			29,673
			\$ 135,926

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 is also included. A summary for each building follows:

The Kaufman Building is a four story building with 31,250 s.f. located at 208 S. Market. Owners have already invested in substantial tenant improvements. Projected cost for the facade improvements on this building is \$29,673 (increasing to \$40,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Landmark Square Building is a five story office building with 46,500 total s.f. located at 212 N. Market. Owners have already invested in tenant improvements, common area remodeling, and technology infrastructure enhancements. Projected cost for the facade improvements on this building is \$338,925 (increasing to \$440,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Farmers and Bankers (F&B) Building is a five story office building with 25,018 s.f. located at 200 E. First. Owners have already invested in tenant improvements, common area remodeling, and technology infrastructure enhancements. Projected cost for the facade improvements on this building is \$169,634 (increasing to \$225,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Orpheum Building is a seven story office building with 44,506 s.f. located at 200 N. Broadway. Owners have already invested in interior improvements, including technology infrastructure and common area remodeling. Projected cost for the facade improvements on this building is \$198,727 (increasing to \$260,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Petroleum Building is an eight story office building with a total of 44,804 s.f. located at 221 S. Broadway. Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building is \$528,632 (increasing to \$690,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The Sutton Place is an eight story building (plus a basement and penthouse) with a total 92,000 s.f. located at 209 E. William Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building is \$2,142,533 (increasing to \$2,720,000 with estimated financing costs). The proposal assumes 20-year special assessment financing.

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The SC TelCom 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. The old hotel space will be converted to office space. Projected cost for the facade improvements on this building is \$4,423,566 (increasing to \$5,630,000 with estimated financing costs). The proposal assumes 20-year special assessment financing.

Improvements to the Kaufman, F&B, Landmark, and Orpheum buildings are more general and involve improvements such as masonry repair, tuckpointing, cornice repair, power washing, exterior painting, and window and door repair/replacement. In addition to simply having more exterior surface because of the larger size of the buildings, improvements to the Petroleum, Sutton Place and SC TelCom buildings are more substantial, changing the entire exterior appearance of the building on some sides to create a visually stimulating impact to travelers entering the downtown area.

Each building improvement project will require a separate special benefit district to be established. State law requires a formal public hearing to establish a special assessment benefit district. Petitions and resolutions have been prepared for each project. All may share the same public hearing. The resolutions provide for March 18, 2008 to be identified as the date of the formal public hearing.

Real Development has requested the project include development fees of up to 10% of the project cost for each building. To include development fees would be an exception to the City's normal special assessment policy and the fees are not included.

The combined project budget for all buildings to be paid by special assessments is estimated at approximately \$10 million. These will be General Obligation Taxable Special Assessment Bonds, paid as to principal and interest with special assessments levied against the improved properties (if available) 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. The following table identifies the estimated financing costs per facade project:

BUILDING		Total Net	
Bond Proceeds		Estimated	
Financing Costs		Total	
Principal			
SC TelCom	\$ 4,423,566	\$ 1,206,434	\$ 5,630,000
Sutton Place	2,142,533	577,467	2,720,000
Petroleum	528,632	161,368	690,000
Orpheum	198,727	61,273	260,000
Landmark	338,925	101,075	440,000
Farmers & Bankers	169,634	55,366	225,000
Kaufman II	29,673	10,327	40,000
TOTAL	\$ 7,831,690	\$ 2,173,310	\$ 10,005,000

The City Council's action today approving the petitions and adopting the resolutions requires the determination of a "not to exceed" amount for each special assessment district. Amounts included in the petitions and resolutions distributed with this agenda report do not include development fees.

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.

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State statutes provide the City Council authority to use special assessment funding for the projects. A formal public hearing is required as part of the approval process. The petitions approved and resolutions adopted today will set the maximum amount for each special assessment district. Actual amounts to be special assessed at the completion of construction may be less, but they may not exceed the amounts included in the petitions and resolutions.

Mayor Brewer

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

Mayor Brewer

Mayor Brewer stated he has noticed that there is an awful lot of attention being paid to the façade of buildings and he hopes that this same attention or special interests continues to happen when we have buildings like we have had in the past, where no one seemed to pay any attention when the façade is falling off the building onto citizens and onto their cars and everyone is saying that it is not their responsibility. Stated he expects this exact same attention to be paid to those facilities when those buildings are having those same problems and everyone not turning a blind eye.

Motion--

Fearey moved that the Petitions be approved; the Resolutions adopted that are based on not to exceed project costs that include a development fee, based on 10 percent of construction and design cost, that would be the architect and the design costs; the necessary signatures authorized; and establish the public hearing.

Council Member Skelton

Council Member Skelton stated he likes the program and what is on the green sheet but cannot support the motion because of the variance with Staff recommendation.

Council Member Longwell

Council Member Longwell stated what is most important to him is that we have a project that we encourage our core area to rebuild its infrastructure. Stated we are making a significant investment in that core area and feels in order to get developers, business people, and owners to buy into that and make significant changes in that, he thinks is a good thing and what we need to be concerned with is how much risk is involved on the City's behalf and are we mitigating that risk in different ways and are we really putting elements into place to provide the oversight that we need to provide. Stated we have an administration fee because this project is a little unique and he is suggesting that development fee falls in line too. Stated this project is certainly unique and it does not negate the fact that there is considerable work that has to go in place to get these unique projects to come together. Stated it does not bother him that that development fee is outside of sometimes what is called an architectural fee/development fee on projects. Stated the fact that these two are separated, does not cause him too much concern and the bottom line is that it is a good project that is financially feasible and encourages everything that they want to see in our core area and that is why he supports it. Motion carried 6 to 1, (Nay-Skelton).

--carried

RESOLUTION NO. 08-136

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 208 South Market (south of William, east of Market 472-84684 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1, Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

RESOLUTION NO. 08-137

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 212 N. Market (north of 1st, east of Market) 472-84682 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

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RESOLUTION NO. 08-138

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 201 East 1st Street (north of 1st, east of Broadway) 472-84683 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

RESOLUTION NO. 08-139

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 200 North Broadway (south of William, west of Broadway) 472-84681 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

RESOLUTION NO. 08-140

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 221 South Broadway (south of William, west of Broadway) 472-84680 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

RESOLUTION NO. 08-141

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 209 East William (east of Market, south of William) 472-84679 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

RESOLUTION NO. 08-142

Resolution of findings of advisability and Resolution authorizing construction of façade improvements at 125 North Market (north of Douglas, west of Market) 472-84678 in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Fearey, Gray, Longwell, Schlapp, Williams, and Brewer, (Nay-Skelton).

FOUR MILE CREEK

FOUR MILE CREEK SEWAGE TREATMENT PLANT IMPROVEMENTS - DESIGN/BUILD. (DISTRICT II)

Dave Warren

Water and Sewer Director reviewed the item.

Agenda Item No. 29.

In 2001, the Water Utilities purchased the entire wastewater treatment and collection system infrastructure owned by Sedgwick County. The sewage treatment facility, Four Mile Creek, was upgraded to include updated treatment components allowing the facility to meet regulatory limits for nutrients. Capacity at this facility was doubled to accommodate area growth.

Growth in northeast Wichita has caused the amount of flow to the facility to exceed planning predictions. As a result, the treatment plant is at flow levels that were predicted for the year 2010. In addition, solids handling, effluent disinfection and a needs assessment/design for effluent pumping will be addressed, as there are operational problems in those areas.

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The project will involve the construction and installation of process equipment to increase the treatment capacity of the system from three million gallons per day (MGD) to six MGD. The increase should accommodate growth in the area through the year 2050. This expansion will incorporate technologies for the removal of nutrients, which will be required in future permits. Ultraviolet disinfection will also be a component of this project.

Four Mile Creek is the only sewage treatment facility operated by Water Utilities that uses chlorine for effluent disinfection. By changing technologies, safety and health risks associated with the use of chlorine will be eliminated, and the Water Utilities will be exempted from regulations governing the use of chlorine.

Solids handling operations will be addressed; they are costly and labor intensive. Water Utilities will reduce the time spent in the transportation of solids by 71 percent by adding technology suggested in the solids master plan update. The modifications will allow the cessation of introducing solids into the collection system, thus reducing the potential for sewer stoppages and overflows.

The last major item is the evaluation of alternatives for discharging water during wet weather events. Periods of high water flow in Cowskin Creek can restrict discharge to the creek. This project will analyze the potential to cause problems with the treatment process and will assess the need for effluent pumping, or storage, as a resolution to the treatment process.

Staff believes an aggressive schedule is to be pursued due to growth in northeast Wichita. By using design/build methodology in construction of the upgrade, Water Utilities will be able to ensure capacity for customer growth and uninterrupted permit compliance.

Estimated cost for the project is \$10,400,000. Funds have been budgeted in CIP S-530, Four Mile Creek Plant Improvements. Funding will be provided by Water Utility revenues and reserves, and/or a future revenue bond issue.

This project addresses ensuring efficient infrastructure by helping to assure the reliability and security of the Water Utilities.

City Council authorization is required to initiate CIP project funds. Charter Ordinance 111 requires City Council approval for a "design/bid" project prior to sending Requests for Proposals. Law has approved the Resolution as to form.

Council Member Longwell Council Member Longwell inquired if we are still looking at opportunities to try and capture that effluent water and utilize it in a positive way.

Dave Warren Water and Sewer Director explained that they are still very interested in finding a market for treated wastewater. Stated the newest facilities that they have, including this one, have all been set up to allow them to disinfect and treat the sewage to a level that would allow them to market that if they can find a user. Stated they have had recent discussions with the City Manager regarding a possible opportunity there and they continue to look for that and to actively seek ways to do it.

Council Member Gray Council Member Gray stated that since we have Dave Warren and Wes Galyon who is with the Wichita Area Builders Association in the same room, he would like to encourage them to engage in a dialogue with them and their developers that we start entertaining the thought of dropping a second water line in when we do new developments and when the City does expansions of water mains. Stated if we want to talk about creating a customer that can buy those and when we have to get it there first, and every time we dig up a street or put in a new water main, it is real expensive to go back and do that a second time. If you have the hole in the ground you do not have to put the same standard of pipe to run non-potable water through it and could probably do it for the fraction of the cost and if we start entertaining that discussion now, maybe in a few years we will be at the point where we can add that second water line in for that gray water on all new developments and all city water main expansions while it is economically feasible and then we can create a customer pool.

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

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Motion--

Schlapp moved that the design/build project be approved; initiation of CIP funds authorized; the Resolution adopted; Staff authorized to proceed with the RFP; and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-143

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water utilities owned and operated by the City, and to issue revenue bonds in a total principal amount which shall not exceed \$10,400,000 exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Schlapp moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

COWTOWN

PERFORMANCE/RECEPTION FACILITY-COWTOWN. (DISTRICT VI)

Vice-Mayor Fearey

Vice-Mayor Fearey reviewed the item.

Agenda Item No. 29a.

The Old Cowtown Museum began as a preservation project in the late 1940s with the City of Wichita (COW) becoming involved shortly after the first two buildings were acquired. The museum quickly grew from a preservation project into a living history museum of over 60 structures. For most of the last 30 years the Museum was operated by the nonprofit organization, Historic Wichita-Sedgwick County, Inc., with subsidies from both COW and Sedgwick County on land owned by COW.

Recent developments concerning Cowtown include:

- 1) The Old Cowtown Museum Visitor's Center, constructed and opened in 2005, was designed to be both a visitor center and multipurpose space available for rent. This \$2 million facility was financed with \$825,000 each from the city and county and the balance from donated funds.
- 2) In 2005, Sedgwick County contracted for \$100,000 with Museum Management Consultants, Inc. of California to develop a short- and long-range plans for Old Cowtown Museum.
- 3) In August of 2007, the Wichita City Council took action to assume control of Old Cowtown Museum and all obligations for operating the Museum by:
 - approving the termination of a 99-year lease with Historic Wichita-Sedgwick County, Inc.;
 - authorizing up to 16 city positions and related operational budget for the operation of Cowtown; and
 - authorizing the negotiation of a lease with the Prairie Wranglers.

The City of Wichita began formally operating the Museum in September of 2007. The operation of Cowtown by the City is projected to run a deficit of as much as \$545,870 in 2008 and \$851,130 in 2009, due largely to an anticipated reduction in support from Sedgwick County (\$219,000 in 2008 and \$519,000 in 2009), as indicated in the following table:

Cowtown Operations: 2008 and 2009 Revised Budgets

	2008	2009
Revenues	\$ 990,150	\$ 679,890
Expenditures	\$1,536,020	\$1,576,820
Surplus/ (Deficit)	\$ (545,870)	\$ (851,130)

In September of 2007, COW entered into an agreement with the Diamond W. Wranglers, and the group had a successful Christmas season performing at the Old Cowtown Museum Visitor's Center. To continue their success the Wranglers have advised they need a larger facility to accommodate dining and theatre seating of 400 to 600. A new performance and reception facility could be constructed on

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the Old Cowtown Museum Visitor's Center campus connecting the Visitor's Center to Historic Cowtown. This building would be approximately 14,000 square feet consisting of a seating and eating area, stage, audio and visual room, catering kitchen, storage room, restrooms, and ticket area. The building would be located on the campus and could be expanded at a later date to include a museum and gift shop or other river entertainment features.

The new building would be a pre-engineered metal building with a façade that blends with the historic Old Cowtown appearance. A Design/Build process is recommended due to the simple design, cost effectiveness the need to fast track the project so it is completed prior to November 1, 2008.

The projected cost of the Cowtown performance and reception facility is \$4 million. In order to finance the facility Vice-Mayor Fearey recommends that projects in the current Capital Improvement Plan be replaced or deferred, as follows:

- \$1.2 Million from the Lincoln Street Bridge (budgeted at \$1.2 million for 2009);
- \$1.0 Million from Rail Grade Separation (budgeted for 2009 at \$3.5 million); and
- \$.8 Million from Fleet Upgrades (budgeted at \$3.0 million for 2008 and 2009; \$400,000 each year for two years).

Vice-Mayor Fearey further recommends that the remainder of the money (\$1.0 million) be bonded, if necessary, and that payments on the bonds not covered by revenues from the facility be funded annually, one half from the Tourism and Convention funds and one half from the mill levy allocation for Arts and Culture.

This would impact the Quality of Life goal by providing citizens with entertainment opportunities along the museums on the river.

Council Member Schlapp Council Member Schlapp stated that she likes to see Wichita growing, progressing, and moving ahead and thinks that quality of life issues are a huge piece of what is helping Wichita to grow at this time. Stated this is one more opportunity for the Council to say let us continue to make Wichita a destination and Cowtown is a destination and we need more destinations and make it a reason for that entire river to be a place where people want to come. Stated this is another venue that adds to that quality of life issue, better use of the river, and all the good things about the Wranglers and Cowtown. Stated she is excited because there are members of the private sector that have expressed an interest. Stated she is pleased that this is coming forward today.

Vice-Mayor Fearey Vice-Mayor Fearey stated she would like to explain why we are moving forward on this in such a quick manner. Stated normally she is a real procedure follower and that she likes to get things in the CIP moved forward and see that happen but sometimes opportunity does not just knock but hits us over the head with the door, and she thinks this is one of those times and that is why we need to move ahead.

Council Member Skelton Council Member Skelton stated there were some points of quality of life that were made and regarding the financing of this project, is taking a million dollars out of the railroad projects; \$800,000 coming out of our public works heavy equipment replacement fund; and what strikes him is what a railroad corridor does for the quality of life. Stated he is most familiar with his side of town and he has two railroad projects that run through neighborhoods and one track that carries over 40 trains a day and another track that carries 10 trains a day and he is thinking of what the quality of life improvement would be versus that of a Cowtown Theater. Stated he sees a railroad project helping citizens multiple times a day with noise issues, traffic congestion issues, and railroad overpasses are good for the environment. Stated there are a ton of quality of life benefits and in his opinion, out weigh those factors of a dinner theater by quite a bit. Stated regarding the fleet heavy equipment; this is something our public works department uses to maintain our infrastructure. Stated he is interested in looking at a dinner theater in Cowtown but his vision would be similar to what was built out east in their old location and they operated a successful business out there and heard that the cost of their building was substantially less than four million dollars. Stated they turned over a profit in that place and it was successful and the goals of a dinner theater could still be met if we put together more of a conservative and reasonable business plan for this facility that could meet all those objectives about getting people in Cowtown. Stated one thing that really concerns him is the lack of the public process that has not taken place. Stated he always thinks that it is better as a philosophy in public policy to take our time and do things

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properly, than in a quick manner. Stated it is his understanding that there is not an operational plan that exists for this building and there is still a lot of maintenance for the existing facilities in Cowtown. Stated we have an "emerald house" that is surrounded by buildings that do not probably meet city code and in his opinion when we have a facility that the City government owns and is not up to city code that is hypocrisy. Stated we have got to be the role model. Stated we have a budget coming up and part of the public process is that this should be done in conjunction with the budget. Stated he is not convinced that there will not be a continued yearly subsidy on this project and we have enough things that we subsidize here and have a one mill funding that goes to the arts and this is going to be above and beyond and it is just more funding for the arts and he is an infrastructure man and we have a program to fund the arts and if there is going to be funding that comes out of this, then it needs to come solely out of this and not our public works department or railroad infrastructure. Stated there is still no commitment by the private sector.

Council Member Gray

Council Member Gray stated he put together five issues he has with this. Stated the first one is even though we are saying that we are not building this facility for this group; we are building this facility for this group. Stated they are the main tenant and if it were not for them, we would not even be talking about a dinner theater and we have to consider that and in that, he knows there has been discussions of some kind of tenant/landlord agreement between us and this group for a specific annual period of time and his concern with that is what are the legal safeguards to insure that the tenant is bound to this obligation because this is a group made up of multiple individuals and is the legal agreement just with the group under such name and if the group were to change their name or break up, would that contract still be binding and then we are out a tenant. Stated issue two is that he had asked for a financial analysis and he received one but in his opinion he feels that it is very vague. Stated it defines a cash flow process of revenue and expenditures and the expenditure side was pretty concise but on the revenue side it was very vague and it just has an annual estimate of \$184,000 of revenue from performances. Stated he would rather see how many evenings this is rented out, what is the anticipation of using this facility for other venues, etc. Stated we are talking about supporting Cowtown and increasing the viability of it because it is a drain on our budget annually but we are automatically talking about doing this and encumber even more of a loss. Stated if you operate this off of the conservative numbers that have been given, of a net operating income of \$133,000 a year, than that means we can finance 1.5 million dollars and if you want to build a 1.5 million dollar building, he will support it or if you can find someone to write you a check for the 2.5 million dollar difference, then he is fine with that. Stated four million dollars is a lot. Stated issue three is no presentation was given to him for any of the previous year's performance of this group. Stated he thinks they have been around approximately five years but we have no idea if this groups' attendance is on a decline, is it still growing, or has it plateau. Stated if we are going to build a building for multiple year performance contingent off of a group covering most of the debt service on this, he would like to know the sustainability of this kind of entertainment venue going multiple years out to the future. Stated they have been playing at Cowtown since last year and asked why there was no analysis given on either an increase or decrease in attendance by people during that period of time that they were in there. Stated if it is really helping Cowtown, show him what a year of performance was and how much an increase was to Cowtown and if so, was it enough to cover some of that deficiency and debt service. Stated his final issue is no future usage of the two year old visitor center immediately next door is given on this. Stated when that building was built by the City and the County, there was some assumptions made that we need this building for facility rentals and that is how we are justifying the expense of creating it. Stated if you build a facility right next door and anticipate renting that facility out, how does having two competing facilities next door to each other coincide and are we still going to be able to rent out and use both facilities and is there enough to man and that is something that has not been proven to him at this point in time and is a question that he feels needs answered. Stated he has a problem with four million dollars and thinks it is ambitious and has no idea if the building will even cost that because we already own the ground and have a parking lot and the utilities are right there. Stated all we need to do is build a building. Stated he just wants to break even and does not care if it makes money but does not want to walk into a deal knowing the deal is going to lose money and say we need this deal to shore up Cowtown but we are going to lose money in the process. Stated he is tired of throwing money at it and would like some of it to bounce back.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

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Jeff Arnsdorff

Mr. Arnsdorff stated he and his father run Village Tours and they are involved with the Diamond W Chuckwagon Supper and was involved with it when it was the Prairie Rose and took hundreds of people to Carnegie Hall two years in a row, took 186 people from Wichita to China, did a lot of travel with these guys, and took a lot of groups out to Benton, Kansas to see their attraction. Stated he and his father got to know these guys and appreciate the music and a lot of the concerns that Council Members Gray and Skelton have, they have had those discussions regarding their numbers. Stated he is all about private business and the urgency on this has been the fact that when the Prairie Rose in Benton went bankrupt, they needed to find a way to capture what the successes that had been going on out there and keep the momentum going. Stated they continually serve 30 to 40,000 people in Benton and some years were better than others. Stated even the most recent year were 35,000. Stated when he and his father approached the band, they wanted to figure out a way to salvage the band because they know they are a good attraction for this area. Stated they wanted to keep these guys here and new that there could still be travel with them and a lot of conventions coming to town to take out to see them and that is the main reason and a business decision and Cowtown was the first on the list and made sense. Stated they have been operating out of the Visitor's Center there and it has been a challenge because there is not a kitchen, but a catering kitchen so they have been cooking food off site and bringing food in and cannot do the dishes there so they have to take the dirty dishes out and it has been a challenge. Stated they have to tear down the stage and the table and chairs and then set them back up and take all of the instruments and store them in a room, and then put in a trailer. Stated they have been in transit ever since they have started in September. Stated from starting in September to December, they have done almost 7,000 people and that is at a seating capacity of about 180. Stated the during the Christmas season, they probably turned down as many people as they served. Stated since September, they have had every major corporation in Wichita come out there and bring groups. Stated this does go with the quality of life in Wichita, having entertainment like this here in town. Stated they do not want to see the City lose money on this and they have spoken with Council Members Fearey and Schlapp with keeping the cost of the building down and they just need a simple building with a kitchen and are not sitting here saying this is going to be the "savior" of Cowtown or saying that we need to spend a lot of money on it but feels that having entertainment at Cowtown will help the overall picture of Cowtown. Stated the only urgency on this is that these guys are making a living off of this and they are very talented and they are trying to speed up the government process as much as possible to get this facility and keep them economically viable and keep the group together.

Council Member Williams Council Member Williams asked for estimation on attendance and performances.

Jeff Arnsdorff

Mr. Arnsdorff stated in the forecast that they provided to the City, they forecasted a little bit of a drop initially just because the name of the company is not familiar to everyone right now and they are not even in the phone book yet. Stated they are real excited about working with John D' Angelo and a new director at Cowtown and thinks working together and combining their resource efforts and are looking at a \$50 to \$60,000 annual advertising budget out of their own pockets to promote the Diamond W Chuckwagon Supper Club and every time they promote the Diamond W, they are also promoting Cowtown as well. Stated there are some nice links between what they do at Village Tours, Cowtown, and the Chuckwagon Supper Club all together. Stated they have already talked about doubling the amount of money they would spend per person to come out there and use the facility because they are going to have a kitchen, which will save them a lot of hassle and efforts with staffing and are trying to work with the City on making this happen. Stated realistically the first year would be about 25 to 30,000 people.

Orin Freesen

Mr. Freesen stated he is with the Diamond W Chuckwagon Supper, stated they started in 1999 and the first year they did just about 7,000 people and then the next year they did 14,000 and then got to 30,000 and their biggest year was in 2004, which was the year of the Ladies Bowling Tournament. Stated if you average it all out not using those first two low years, 30 to 40,000 people is what he would say it has been. Stated he does not think they have plateau but feels that part of the problem was that they were out in Benton, which sometimes seemed like the end of the world to people in town here and they are now excited that they are in town now. Stated since September of last year, they had around 7,000 people and part of that was that the facility was not available to do their shows due to weddings, receptions, etc and had to use a different location, which seats only 80 people. Stated it is hard to say what the number would be if the facility were available all of the time.

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- Council Member Skelton Council Member Skelton stated this is direct evidence of what happens when we do not have a proper public process. Stated the City Manager said in an agenda review with the Council last Friday and told all of us that when you rush through things, it is likely that mistakes are going to be made. Stated he is interested in a simple little building with a kitchen cause that is something that stood on its feet for years out east and is something he feels could possibly stand on its own two feet in Cowtown instead of taking money out of our railroads or other important things. Stated the amounts of people that are going to benefit from a railroad overpass are many more times than a supper club.
- Vice-Mayor Fearey Vice-Mayor Fearey stated this is railroad crossings at 21st and 29th Streets and because of Skelton's concerns at agenda review last week, she reworked it and took money out of projects in her district and they are projects that are not associated with rail grade separation.
- Jim Farrell Mr. Farrell stated he is one of the Prairie Rose Wranglers, which is now the Diamond W Wranglers. Stated regarding the railroad issue, that is viable and how much the building cost is viable. Stated what they can guarantee is that they are an attraction that can quite possibly turn around Cowtown and make it not a problem for the City Council and the City of Wichita. Stated not only is the group committed to the project but their hearts concerning Wichita and the state of Kansas and when they went to Carnegie Hall and sold it out twice, Governor Sebelius gave them a proclamation that they are now the musical ambassadors for the state of Kansas and this continues on through when they went to China. Stated they are in Wichita now and it is their heart to help promote Kansas and most specifically Wichita in tourism. Stated they are not a typical band or entertainment group and area a band not focused on their careers but have been in the business a long time. Stated he was raised in Nashville and was raised in the music business all of his life and as far as the Diamond W Wranglers are concerned and the Chuck Wagon that goes along with this building, they are committed to the growth of Wichita and are going to use anything that they do as far as high level notoriety to bring people directly back to that one venue in the City of Wichita and that is their focus. Stated as far as the size of the building, they will crawl before they walk and will get this thing going and start bringing revenues in and will grow with it and does not know where the four million dollar figure came from. Stated they are committed to Wichita and the prosperity here through tourism and what they can do as citizens with their talents to promote that.
- Council Member Schlapp Council Member Schlapp stated we cannot lose this opportunity and she is excited about it and has received that same enthusiasm from people she has had conversations with out in the community. Stated you cannot make a dollar if you do not invest and our opportunity to bring folks here are far greater now that it is within our jurisdiction and the energy and the quality of the people who are willing to take the first step is very encouraging and exciting. Stated we have tried advertising Cowtown and have not had an enormous success and now we have it going out all over the country in tourism magazines advertising it and we do not even know all of the benefits that are going to come out of this. Stated the possibilities here are endless and the reason this City is successful right now when the rest of the world might be struggling, is that this Council, Mayor, and group of people are willing to step up and take some chances and do some things that are going to encourage people to be coming to this town. Stated when businesses look at a community they do not just come in and say that is a nice piece of land and I think I would like to go there and when you bring executives in they have to have places to go and we went through this with Pizza Hut and other corporations that we lost because we could not provide destinations and places for these people to be. Stated this is an opportunity that she really feels strong about and the community will not be pleased if we let it get away. Stated as far as the cost of the building, a request for proposal (RFP) will go out and that number is not set in stone but is a best guess estimate of what they think might happen. Stated when that RFP goes out we can accept or reject the RFP and so therefore we do not know what that final number is going to be. Stated as far as the costs are concerned, they are yet to be determined but until we start this process we cannot do the RFP and get those final numbers. Stated a long term lease has come up among several members of the Council and we all feel very strongly and cannot proceed with this and you guys say you will give it three months and then we will check it out again. Stated if we move forward and there have been discussions on both sides about a willingness to create a long term lease to the benefit of them and the benefit of the City and we are going to have to have some revenues that come out of that long term lease. Stated she believes when we set the lease up, which will happen as soon as we do this, she believes the lease is the next piece we need to get into and brought forward very quickly. Stated she feels very positive that revenues will be greatly increased to us because of that lease. Stated Century II does not make a profit but is a venue that we need in a City that is growing and thriving and is going to be attractive to the rest

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of the world and to ourselves and if we can have another destination that helps us to fill Century II, then conventions will also benefit from this. Stated this is good for economic development and quality of life and for bringing money into other venues within the City. Stated sometimes you have to invest a little and take a chance and she does not think this investment is huge and thinks the community will step up to the bat and help us with that investment.

- Council Member Skelton Council Member Skelton asked what two railroad projects the memo is specifically relating to on the 21st and 29th railroad corridor.
- Vice-Mayor Fearey Vice-Mayor Fearey stated they are at grade crossings on 21st Street and 29th Street in the District VI and the reason that she opted for these is that some work has been done on those railroad crossings and it is her feeling that we will be okay on those and that they can be moved back in the CIP and she does not have any guarantee that they will stay in the CIP and is willing to take that risk with people in her district and she will have some explaining to do and she will do it because she thinks that it is worth it to get this project done.
- Council Member Skelton Council Member Skelton stated that he thought the railroads were partners in funding these railroad crossings maintenance.
- Chris Carrier Public Works Director explained that we have railroad crossing improvements several places in the CIP and there is also a section in the CIP that is just for railroad crossings city wide and when we put that in the CIP, we have about \$250,000 a year in that and anticipate a match with the railroads that they would get if they try to do crossing improvements under that project. Stated this money that Council Member Fearey is talking about came out of the 21st Street revitalization project that was done by planning and in their master plan they call for improvements to a number of railroad crossings on 21st Street, 29th Street and in some other areas. Stated last summer they did two of the crossings on 29th Street and did the majority of the big crossing east of Broadway and did the next crossing down from that and that is half the crossings that they had planned to do and do not need at this point in his opinion, all of the money that was budgeted in the CIP and it was split over a two year period. Stated Council Member Fearey is asking to take half of that money and apply it towards this project and he thinks that is okay. Stated on 21st Street there was also a million dollars for crossing improvements and that is still up in the air as to what they are going to do on 21st Street because of the issue of the railroad overpass and they are going to have a meeting later this month with the railroads and are going to try to look at building some type of overpass on 21st Street that will get rid of those crossings and that will be years away. Stated this money that Council Member Fearey is looking at is money that was slated in the next two to four years in the CIP and thinks that is probably safe.
- Council Member Skelton Council Member Skelton stated he feels that city wide, railroad maintenance is a high priority and we have a ton of unresolved railroad issues right now in the community and he just wants to keep that money in the railroad fund no matter where it is.
- Council Member Williams Council Member Williams stated she supports this form of the arts and thinks that it is an opportunity for the City and appreciates the discussion about increasing the partnerships which could also help cut the revenue that the City would have to be looking for. Stated she has had inquiries about taking \$1.2 million dollars from our Lincoln Street bridge and she wants people to know that we did discuss this and that money should remain there for that project and there was no way she would approve that. Stated she does approve of this project and the funding is still something that will be looked at but is definitely in support of this project.
- Council Member Longwell Council Member Longwell stated he supports many of the benefits that Council Member Schlapp explained for this project in moving forward. Stated he thinks that the City Manager explained it Friday that there are several things that have not been vetted out and he feels that those things need to happen and it is refreshing to hear from the this group and their willingness to make some compromises and that they want to invest in this town. Stated one thing that he has a concern with is that if we do nothing, we know that we are going to have to subsidize Cowtown on an on-going basis and we have gone through periods of time recently where we have shut down Cowtown because we did not have the funds for it. Stated if we do nothing, those concerns are going to come back to us and we will have to continue to subsidize that and to continue to rely on partners to help us subsidize that. Stated he feels we should approach the County to see how much they want to play on this. Stated there are

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opportunities for form partnerships both public and private and other entities that will help us move this forward and is looking for some kind of process today that will move us forward and give us reasonable assurance that we can draw up contracts that will both get this group to commit to a long term contract and still allow us some room to develop a game plan that is financially feasible without making great sacrifices with our infrastructure. Stated he understands if we are going to continue to encourage people both inside and outside of our City to enjoy different venues here, it is not going to be created with one gigantic venue and we are not going to have that one all encompassing venue that is going to play out and create the environment that we want to create. It is also going to be created by a lot of these smaller venues in town and they all make up a piece of that. Stated if we are looking at innovative ways to address our budget concerns in this town, and talked about maybe eventually looking at a one cent sales tax that can help us mitigate property tax, we are going to want to encourage venues like this to bring those people to town and reap the benefits that one cent sales tax will bring to us along with opportunities like this. Stated he is looking at a way to move this forward, still work out some of those issues that Ed Flentje has concerns with, work out some of these issues that his colleague Mr. Skelton has concerns with, but he knows if we do nothing that is going to be a big problem.

Council Member Gray

Council Member Gray stated he has no doubt about the group and that they have made money for a private businessman and it is obvious that the capability exists. Stated his biggest concern is that we are asking too much for the building. Stated 1.5 to 2 million dollars for this square footage, we could build a real nice building and it does not have to be a tin can. Stated he is concerned that if we go out and say on our RFP that we want a four million dollar building, people are going to come back and going to design and build us a four million dollar building. Stated if the Council can figure out how to get this price down, then he will be fine with this. Stated if we build the right size building we can finance it and it is going to carry itself and he will not have to be concerned about what railroad project does not get funded. Stated if we build the right size building, this thing is going to take care of itself and will not be a burden to us.

Mayor Brewer

Mayor Brewer stated that first of all the City Manager's responsibility is to give the Council his honest opinion, whether they agree or disagree with what he thinks or he believes. Stated the law department has the same responsibility and from that standpoint as policy makers, the Council has the responsibility of making a decision of what we are going to do and whether or not we are going to take the recommendation. Stated this particular issue is not anything that is new to the Council and everyone has brought forward some good valid comments and concerns depending on what they would like to see and at the end of the day we have the responsibility to do whatever is necessary. Stated he agrees that we do need a plan but if we do nothing to Cowtown and if it had not been for this group moving in there, which everyone was excited about at the time and no one voted against it. Stated the Council was excited and saw what the opportunities were to generate more energy in Cowtown and we have to look at this from a tourist standpoint and a lot of people from foreign countries visit Cowtown. Stated he feels we need to give this the same attention that was given to the idea and the concept of them moving to Cowtown and how do we go about doing that is by making some investments. Stated whether you like it or not you are going to make some investments in Cowtown whether it is to improve Cowtown if they leave or to go in and bulldoze Cowtown. Stated we have something that other people want and people in other countries want and it is part of our history and this is the way people in other countries perceive us to be and they go to Cowtown for that type of entertainment. Stated he feels this is a good investment for us and he feels that as we start figuring out the RFP, we need to come up with a plan because there are concerns and come up with a design and see how we can do that and he knows that four million dollars was a figure that was put out there but he is sure that it is not to exceed and would like to see what we can do inside of that figure but we must have a plan, see the design, and have a firm and long term commitment from the partners there.

Vice-Mayor Fearey

Vice-Mayor Fearey stated she has no idea about the cost of the building either but does know that what the architects that are on call for the City said is that it is going to be more expensive because we have to have such an open space without the columns. Stated she would like for Council Member Gray to be actively involved in this assuming it passes. Stated if this building comes out less and she would love for it to because her proposal then would be that we put the money back in fleet first, then into the railroad projects in District VI, and then the bonding because she thinks the bonding is coming from things that can handle it pretty well and would like to see that money put back into Capital Improvement too.

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- Motion-- Vice-Mayor Fearey moved that the City Council authorize Staff to proceed with the requests for proposals process; approve the design/build project; approve the financing options; and that we have future actions that will include a bonding resolution and selection of design/build contractor and a memorandum of agreement or understanding, a legal document with the Diamond W Wranglers for performances at the venue.
- Council Member Skelton Council Member Skelton stated he understands the desires and sees where some of the people are coming from. Stated he has been approached by various members of Council over the past few months of how important it is to follow a process that is established at City Hall for projects. Stated we tell developers there is a process, we tell citizens there is a process, and tell everybody that there are processes and when he thinks of good government he thinks of proper process. Stated that is his chief objection here is that there needs to be more research done and he had the City Manager saying that mistakes could be made if this is rushed and finance has not looked at it and it is something he cannot support.
- Council Member Longwell Council Member Longwell stated he needs some clarification with the motion that the Vice-Mayor is suggesting that we move forward on. Stated the request for proposal does not obligate the Council yet and just gives us an opportunity to go through this process that Skelton just lined out is a concern of his, which allows us an opportunity to continue on the road that the City Manager had some concerns and allows us to still vet out some of those concerns. Stated we are not obligating anything yet but just saying to go forward with a request for proposal, get everything put together and it certainly does not obligate them to a four million dollar building. Stated this is not much different than some of the request for proposals that we have don in the last year that he has been on Council and not all of those requests for proposals turned into a project that ever came to fruition. Stated some of them got cancelled out due to the information that they gathered. Stated he does not feel that this is any different and we are not asking for anything out of the ordinary and are still going to scrutinize this and he thinks doing it with a request for proposal allows that process to happen.
- Council Member Skelton Council Member Skelton asked the City Manager to elaborate on what he was telling the Council on Friday about what his vision for a proper process is.
- Ed Flentje Interim City Manager stated he thinks most of everything that has been said has been said and his and Staff's concern is that a project of this magnitude go through a normal process for review of capital improvements and he hears the urgency of this and understands that and assured the Council that if it is the will of the Council to move forward on this, they will exercise vigilance in doing that and do their best to address questions that are outstanding and meet the timetable of the Council on this. Stated he said Friday that there are a variety of questions that had not been addressed and most of those have been raised and discussed this morning.
- Council Member Gray Council Member Gray stated this is the first vetting of this process that gets the ball rolling and as he cited earlier he has numerous concerns and none of those are insurmountable, especially if he can be involved in the process of trying to control the building costs and he appreciates that and looks forward in trying to mediate those concerns and get those satisfied. Stated he is supportive of this project and will be in support of it today but would like to qualify that to each of the Council to know that his concerns will have to be met sufficiently to get his future support when more permanent votes are necessary to secure the financing and the funding of this project.
- carried Motion carried 6 to 1, (Nay-Skelton).

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PLANNING AGENDA

(Council Members Williams and Schlapp momentarily absent. Mayor Brewer momentarily absent, Vice-Mayor Fearey in the chair)

Motion--
--carried

Vice-Mayor Fearey moved that Planning Consent Items 33 and 34 be approved in accordance with the recommended actions shown thereon. Motion carried 4 to 0. (Brewer, Schlapp, and Williams absent).

ZON2007-00036

ZON2007-00036 – ZONE CHANGE FROM “SF-5” SINGLE-FAMILY RESIDENTIAL, “TF-3” TWO-FAMILY RESIDENTIAL AND “LC” LIMITED COMMERCIAL TO “MF-29” MULTI-FAMILY RESIDENTIAL WITH A PROTECTIVE OVERLAY. GENERALLY LOCATED SOUTH AND EAST OF THE INTERSECTION OF 31ST STREET SOUTH AND WICHITA STREET. (DISTRICT III)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 30.

DAB III Recommendation: (September 5, 2007) Approve, subject to Protective Overlay #193, Vote 6-5.

MAPC Recommendation: Approve, subject to Protective Overlay #193, vote 10-1.

MAPD Staff Recommendation: Approve, subject to Protect Overlay #193

The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking “MF-29” zoning in order to develop an apartment/multi-family development. The current 32nd Street South Circle right-of-way, running through the southern one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted, but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and “GC” General Commercial and is developed as a salvage yard. To the west is property zoned LC, “B” Multi-family Residential, and SF-5, which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5, which is developed with a car sales lot, construction services, offices, apartments and a couple of single-family residences.

In this particular area, there is a mix of uses and zones. Just within a four square block area, there are properties zoned LC, GC, “LI” Limited Industrial, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. MF-29 zoning permits up to 29 dwelling units (DU’s) per acre, while TF-3 allows 14.5 DU’s (with a conditional use) and LC allows 75.1 DU’s per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units when compared to the sites current zoning. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The Unified Zoning Code has “compatibility development standards” dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a “conditional use” application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

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This case was heard at the District III Advisory Board meeting held on September 5, 2007, and they voted (6-5) to recommend approval of the request for MF-29 zoning with Protective Overlay #193. At the DAB III meeting, there were a number of citizens present, along with a few DAB members that stated their opposition to the zone change.

At the MAPC meeting held September 7, 2007, the MAPC voted (10-1) to recommend approval of the request for MF-29 zoning with Protective Overlay #193. At the MAPC meeting, there were a number of citizens present to discuss their opposition to the zone change.

At the Wichita City Council meeting held October 16, 2007, the council voted to return the case back to the MAPC with the addition of a traffic analysis. The MAPC then re-heard the zoning request on January 10, 2008, with the additional traffic analysis. The MAPC voted (12-1) to recommend approval of the request for MF-29 zoning with Protective Overlay #193.

Another District Advisory Board meeting was held on February 6, 2008, but that date is after the deadline for this report.

At this time, there have been 31 protest petitions received and stamped by the city clerk. Fifteen of those 31 petitions are located within the formal notification area, equating to 34.7% of the total real property within the area required to be notified by state statute. With the protest being more than 20% of the total real property within the area required to be notified by state statute of the proposed zoning map amendment, excluding streets and public ways and property excluded pursuant to Section V-C.10.b, such amendment may be approved by the Governing Body only by a vote of approval by at least three-fourths of all members of the Governing Body. (Article V, Section C.10(a) of the Unified Zoning Code)

Promote Economic Vitality and Improve Housing Variety

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

Council Member Skelton Council Member Skelton asked if his Staff identified any traffic concerns when the traffic study was done.

John Schlegel Planning Director stated when the traffic analysis was completed it was reviewed by the City traffic engineer and he felt that it would not unduly impact this residential area.

Council Member Skelton Council Member Skelton stated he has reviewed this application and cannot find any legal basis for denial. Stated he feels he is in a position to approve this project and would like to add eight conditions that were discussed with the applicant to the motion.

Motion-- Skelton moved that the City Council approve this zoning subject to the following provisions of protective overlay district #193 and those would be: maximum height as designed by the UZC of building shall be 35 feet for all structures; solid screening six to eight feet tall shall be required along all property line when adjacent to SF-5 zoning; solid screening shall be provided around all dumpsters per code requirements; landscaping to be one and one-half times what is required by code; 35 foot building setbacks will be established along the south and north property lines where adjacent to SF-5 zoning; a six foot wrought iron fence shall be required along the west property line where across the street from the SF-5 zoning; no on-street parking to be allowed; and no off-street parking will be allowed facing the west property line; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council. Motion carried 7 to 0.

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.

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CUP2007-61

CUP2007-61 ASSOCIATED WITH ZON2007-54- CREATE DP- MIKE STEVEN MOTORS COMMUNITY UNIT PLAN; ZONE CHANGE TO "LC" LIMITED COMMERCIAL. GENERALLY LOCATED BETWEEN KELLOGG DRIVE, GOVERNEOUR ROAD, AND CALHOUN DRIVE. (DISTRICT II)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 31.

MAPC Recommendations: Approve, subject to staff recommendations (11-0).

MAPD Staff Recommendations: Approve, subject to replatting or dedication of access control within one year.

DAB Recommendations: Was heard at the DAB II meeting, but no recommendations were made.

The applicant proposes to create DP-308 Mike Steven Motors Community Unit Plan, containing approximately 7.5 acres. With the CUP, the applicant is rezoning the .15 acre property from "SF-5" Single-family Residential to "LC" Limited Commercial bounded by Kellogg Drive on the north, Gouverneur Road on the west, Calhoun Drive on the east and SF-5, residentially developed property located to the south. One lot along Whittier Road, zoned SF-5, is excluded from this request and is owned by another private property owner.

The majority of this tract already is zoned LC and used for an automobile dealership. The proposed vacation of Whittier Road would consolidate the Mike Steven Motors holdings, and triggers the need for a CUP since the overall tract size would exceed six acres of LC zoning. The proposed use for the CUP is auto sales and leasing and associated uses. The east half of the site, platted as E.M Stevens 3rd Addition with one lot in the Keys 2nd Addition, consists of a showroom, service building and vehicle storage facilities. The existing structure, on the east half of the site, is proposed to be expanded and used as the main showroom, service building and vehicle storage facility. The west half of the site, platted as Chrysler Addition, currently has an existing service and showroom building which is proposed to be removed for additional vehicle display. The approval of the CUP will be contingent on the replatting or vacation of S. Whittier Road, which currently divides the proposed CUP in half. With the closure of this stretch of road, the CUP will become one whole parcel for the automobile dealership.

Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. An exception to the setbacks could be made since the existing structure on the east part of the property is currently setback 10 feet from the east side property line and the planned addition to the existing structure would be setback 15 feet from the rear property line. Other than those two locations, the remainder of the setbacks within the CUP should be 35 feet. Maximum building height would be 35 feet. Signs shall be spaced a minimum of 150 feet apart except that the spacing between two signs on Kellogg that may be reduced to 120 feet. Building wall signs are prohibited on facades facing Gouverneur Road, Calhoun Drive, and south towards the residential development. Freestanding signs shall be prohibited within the south 300 feet of Gouverneur Road, within the south 300 feet of Calhoun Road, except for directional signs denoting parking spaces within the property. Outdoor speaker systems and elevated platforms for vehicle display would be prohibited in accordance to Unified Zoning Code Article III, Section III-D.6.x.

Access control shall be as shown on the plan. Dedication of access control shall be granted by separate instrument or by replatting the property. Access drives spaced less than 50 feet apart along Kellogg Drive shall be consolidated into a single access point. Requested screening on the south property line and southwest corner of the property, adjacent to residential zoning, would be with a six to eight foot high concrete wall with a planting screen of evergreen trees at a rate of one tree per 20 linear feet in between the property line and the concrete wall.

The Kellogg freeway borders the property on the north. The land north of the freeway is developed as an automobile dealership with "PUD," Planned Unit Development zoning, Town East Square, zoned LC, is located northeast of the site and the residential enclave, Eastborough, is located northwest of the subject site. To the east of the site is a hotel and restaurant, zoned LC and "GO," General Office.

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Another automobile dealership on property zoned LC is located west of Gouverneur Road. All property to the south is zoned SF-5 and is developed with single-family residences.

At the District II Advisory Board meeting held December 3, 2007, DAB II did not vote on the case to recommend approval or denial since the DAB members decided that they did not have a quorum. There was one citizen that spoke in opposition of the application, and one citizen sent in a letter of opposition. No protest petitions have been received in opposition to the zone change and CUP as a project. At the MAPC meeting held November 15, 2007, MAPC voted (10-0) to approve subject to staff recommendations:

- A. APPROVE the zone change (ZON2007-54) from "SF-5" Single-family Residential to "LC" Limited Commercial subject to replatting or dedication of access controls within one year;
- B. APPROVE the Community Unit Plan (DP-308), subject to the conditions of the CUP attached hereto and the following conditions:
 - 1. Parcel 1 shall be subject to the Unified Zoning Code Article III, Section III-D.6.x.
 - 2. Upon approval of the CUP, BZA59-85 and BZA39-65 shall be deemed superseded by the CUP requirements.
 - 3. A replat or dedication of access control to eliminate one access point on Kellogg as shown on the CUP shall be completed and the owner shall guarantee closure of the one drive. There will be one major access point along Kellogg Drive.
 - 4. A replat or dedication of access control to provide access control on Gouverneur Road, allowing one access opening, and access control along Calhoun Drive, allowing three access openings.
 - 5. Add to General Provision #2 that signs shall be spaced a minimum of 150 feet apart except that the spacing between two signs on Kellogg that may be reduced to 120 feet. Add that building wall signs are prohibited on facades facing towards the residential development south of the subject site. Freestanding signs shall be prohibited within the south 145 feet of Gouverneur Road, and within the south 100 feet of Calhoun Drive, except for directional signs denoting parking spaces within the property.
 - 6. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - 7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - 8. The transfer of title of all or any portion of the land included within the Community Unit Plan for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 - 9. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-308) includes special conditions for development on this property.
 - 10. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Promote Economic Vitality

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

Council Member Schlapp Council Member Schlapp asked Chris Carrier to explain the Orme Street situation.

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Chris Carrier

Public Works Director stated the issue of whether or not the City is going to do improvements to Orme in conjunction with the one way frontage roads of Kellogg have been discussed and years ago when the plans for east Kellogg were being formulated, making improvements to Orme in three different places were considered and in one point in time approved by the Council subject to the automobile dealers in general out there providing the right-of-way and then the City building the roads and the pieces of Orme that were contemplated to be built. Stated that whole process broke down very quickly because the car dealers could not buy all of the right-of-way and they came back to them at one point several years ago and requested that the City purchase the right-of-way and build those three projects and the Council would not do that. Stated the thought was that we had a deal and they expected the car dealers to provide the right-of-way and then we would consider building the projects. Stated this is one of those areas that was under consideration and what has happened is that they have always wanted to vacate Whittier and build the piece of Orme that would run behind this property. Stated with the proposal that is before the Council now and will be before you when you see the plat, they will give the City a contingent dedication across the south piece of the property where they own for future Orme right-of-way. Stated there is one house that is not for sale and the City has a couple of different times in conjunction with this Orme proposal approach that gentleman and has the car dealers to see if we could amicably acquire that parcel and that has not been possible. Stated that individual's residence is not included in the plat and we are not proposing to acquire it at this point but will get through the planning process that contingent dedication for Orme and that would allow us to if we need to, to build Orme from Whittier out to Governour to give the people who live south on Whittier another way out and we are not land locking them by vacating that piece of Whittier. Stated they have reviewed the documents on the platting side, the contingent dedication and are satisfied that accomplishes what they want to accomplish and they do not have any objections to this proposal at this point.

Council Member Schlapp

Council Member Schlapp stated she wanted to make that clear that we are finally resolving something that we promised years ago to the best of our ability.

Motion--

Schlapp moved that the findings of the MAPC be adopted; the community unit plan and the zone change approved subject to the recommended conditions, and replatting within one year; withhold the publication of the ordinance until conditions of approval have been met. Motion carried 7 to 0.

--carried

ORDINANCE

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ZON2007-66

ZON2007-66 - CITY ZONE CHANGE FROM "MF-29" MULTI-FAMILY TO "LC" LIMITED COMMERCIAL. GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF MERIDIAN AND MERTON, 1716 AND 1722 SOUTH MERIDIAN. (DISTRICT IV)

John Schlegel

Planning Director reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Item No. 32.

MAPC Recommendation: Approve without staff recommended dedications (8-4).

DAB IV Recommendation: Approve with staff recommended dedications (8-0-1).

MAPD Staff Recommendation: Approve subject to the dedication of 10 feet of ROW on Meridian, dedication of access control except for two openings spaced a minimum of 150 feet along Meridian, and filing a cross-lot access agreement with the abutting north and south properties.

The application area consists of two platted parcels with 240 feet of frontage on South Meridian. The site is zoned "MF-29" Multi-family Residential; the two parcels are each developed with a single-family residence and detached accessory structures. The residences were built in 1950 and 1930. The

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applicant seeks a zone change to "LC" Limited Commercial; the applicant does not specify a future desired LC land use.

Immediately north of the application area is an MF-29 zoned legal non-conforming mobile home, further north is a single-family residence which recently received a zone change to LC. North of Merton on both sides of Meridian are LC zoned strip malls. South of the application area is an MF-29 zoned four-plex, and MF-29 zoned single-family residences. East of the site is a "TF-3" Two-family Residential zoned church, and TF-3 zoned residences. West of the site, across Meridian, are "SF-5" Single-family Residential zoned residences and vacant lots. Southwest of the site, at the Meridian and Esthner intersection, is an LC zoned vehicle repair business.

MAPC heard this request on January 24, 2008. The MAPC voted (8-4) to approve the request without the staff recommended dedications. At the MAPC, a substitute motion to approve with the staff recommended dedications failed. DAB IV reviewed this request on February 6, 2008. The DAB approved the request subject to the staff recommended dedications. No protest petitions have been filed.

Promote economic vitality.

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

Motion--

Gray moved to concur with the findings of the MAPC and approve the request without the staff recommended dedications; approve the first reading of the ordinance establishing the zone change. 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.

(Item 33)
SUB2007-10

SUB 2007-10-PLAT OF MCPEAK ADDITION LOCATED EAST OF TYLER ROAD AND NORTH OF MAPLE STREET. (DISTRICT V)

Agenda Item No.33.

Staff Recommendation: Approve the plat.

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

This site, consisting of two lots on 2.54 acres, is located within Wichita's city limits and is zoned "SF-5" Single-family Residential District.

Sanitary sewer services are available to serve the site. A Petition, 100 percent, and a Certificate of Petition, have been submitted for water improvements. As requested by City Engineering, an off-site Drainage Agreement has also been submitted.

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

Ensure Efficient Infrastructure.

The Certificate of Petition and Drainage Agreement will be recorded with the Register of Deeds.

Motion--

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

--carried

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RESOLUTION NO. 08-144

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90373 (east of Tyler, north of Maple) in the City of Wichita, Kansas, pursuant to finds of advisability made by the governing body of the City of Wichita, Kansas, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

(Item 34)
SUB2007-68

SUB 2007-68-PLAT OF OAK CLIFF ESTATES SEVENTH ADDITION LOCATED ON THE NORTHWEST CORNER OF MAPLE STREET AND MAIZE ROAD. (DISTRICT V)

Agenda Item No. 34.

Staff Recommendation: Approve the plat.

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

This site, consisting of one lot on 1.53 acres, is a replat of Lot 1, Block 20, Oak Cliff Estates Addition and Lot 3, Block 1 in the Oak Cliff Estates 4th Addition. This site is located within Wichita's city limits and is zoned "LC" Limited Commercial District. The Oak Cliff Estates Community Unit Plan (CUP 2007-64/DP-104) was also approved for this site. A Notice of Community Unit Plan has been submitted identifying the approved CUP and its special conditions for development on this property.

Municipal services are available to serve the site. A Drive Approach Closure Certificate has been submitted to guarantee the closure of any driveway openings located in an area of complete access control or that exceed the number of allowed openings.

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

Ensure Efficient Infrastructure.

The Notice of Community Unit Plan and Drive Approach Closure Certificate will be recorded with the Register of Deeds.

Motion--
--carried

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

Council Member Skelton

Council Member Skelton stated he would like to make a motion at the proper time to reconsider the 2009 Federal Legislative Agenda item.

Gary Rebenstorf

Director of Law stated as long as you have a motion to reconsider in the same meeting under the current rules, it can be brought up at any time.

Motion--

Skelton moved to reconsider item 27 which is the Federal Agenda and the reason is that he wanted to talk to the Council about the 21st railroad overpass was identified as a priority project but since the Council has voted to take monies out of the funds there, he was wondering if there would be any support to making the BNSF a priority.

Motion Died

Motion died due to lack of a second.

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CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

Vice-Mayor Fearey Vice-Mayor Fearey requested to appoint Melissa Gregory as an at large appointment to the Design Council.

Motion--carried Brewer moved that the appointment be made. Motion carried 7 to 0.

CITY MANAGER

COUNCIL APPOINTMENTS FOR CITIZENS COMMITTEE FOR SCREENING OF APPLICATION FOR CITY MANAGER.

Council Member Gray Next time.

Council Member Schlapp Joe Johnson

Vice-Mayor Fearey Kathy Dittmer and Cindy Claycomb

Council Member Skelton Austin Kinsel and Frank Bergquist

Council Member Longwell Ray Frederick and Ben Sciortino

Council Member Williams None at this time.

Mayor Brewer Peter Salmeron and Steve Martens being the chair.

Motion--carried Brewer moved to accept the names. Motion carried 7 to 0.

TRAVEL EXPEND.

APPROVAL FOR TRAVEL EXPENSES FOR MAYOR BREWER TO ATTEND THE LKM GOVERNING BODY MEETING, MARCH 13-14, 2008.

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

TRAVEL EXPEND.

APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBER SKELTON TO PARTICIPATE IN TRADE MISSION TO GERMANY, APRIL 27 TO MAY 3, 2008.

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

Gary Rebenstorf Director of Law stated that he needs to make a clarification of the motion on reconsideration. Stated he forgot that part of the rule also was that you have to be on the prevailing side and since Council Member Skelton was the lone descending vote on that, he was not able to bring it up as a reconsideration item.

RECESS

EXECUTIVE SESSION.

Motion-- Brewer moved that the City Council recess at 12:23 p.m. into Executive Session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: potential litigation, legal advice, matters relating to employer-employee negotiations, and confidential data relating to the financial affairs or trade secrets of a business and that the Council return from Executive Session no earlier than 1:10 p.m. and reconvene in the first floor board room on the first floor of City Hall. Motion carried 7 to 0.

--carried

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RECONVENE

The Council reconvened in the first floor board room at 1:20 p.m. Mayor Brewer announced that no action was taken.

Motion--carried

Brewer moved to close the Executive Session. Motion carried 5 to 0, (Gray and Skelton absent).

Motion-carried

Brewer moved to adjourn the regular meeting. Motion carried 5 to 0, (Gray and Skelton absent).

ADJOURNMENT

The meeting was adjourned at 1:21 p.m.

Respectfully submitted,

Karen Sublett, CMC
City Clerk

workshop followed in the first floor board room