

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 1

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, April 24, 2007
Tuesday, 9:33 A.M.

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

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

The Minutes of the regular meeting of April 17, 2007, approved 6 to 0.

CONSENT AGENDA

Council Member Fearey Council Member Fearey requested that item 9 be pulled for discussion.

Motion-- Brewer moved that Consent Agenda items 1-16f, excluding item 9, be approved in accordance with
--carried the recommended action shown thereon. Motion carried 6 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED APRIL 23, 2007

Bids were opened April 20, 2007, pursuant to advertisements published on:

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

Street and Storm Water Improvements to University Avenue south of Maple, east of Ridge (472-84299/765971/490086) Traffic to be maintained during construction using flagpersons and barricades. (District V)

Kansas Paving Company - \$81,181.00

Lateral 1, Main 19 Four Mile Creek Sewer to serve Stonebridge Addition north of 13th Street North, west of 159th Street East (468-84146/744216/480904) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Wildcat Construction - \$546,323.00

Lateral 521 Southwest Interceptor Sewer to serve Legacy 3rd Addition north of 47th Street South, west of Meridian (468-84329/744226/480914) Does not affect traffic. (District IV)

Duling Construction - \$56,454.00

Water Distribution System to serve Legacy 3rd Addition north of 47th Street South, west of Meridian (448-90279/735358/470031) Does not affect traffic. (District IV)

Mies Construction - \$26,215.00

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 2

Street and Storm Water Improvements to Merton Avenue to serve Rubottom Addition south of Harry, east of Seneca (472-84410/765992/490109) AND Merton Avenue Water Main Replacement to serve Rubottom Addition south of Harry, east of Seneca (448-90228/636179/776571) Traffic to be maintained during construction using flagpersons and barricades. (District IV)

APAC-Kansas Inc. - \$160,453.10 (Total aggregate bid)

Motion--

Brewer moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the necessary signatures be authorized. Motion carried 6 to 0.

--carried

WATER UTILITIES DEPARTMENT/WATER DISTRIBUTION DIVISION: Install Water Utility Service Lines.

Duling Construction Company Inc* - \$232,200.00

*Estimate - Contract approved on unit cost.

WATER AND SEWER DEPARTMENT/WATER DISTRIBUTION DIVISION: Meter Boxes - 21 Polyvinyl Chloride.

Water Products Inc* - \$44,235.00

*Estimate - Contract approved on unit cost.

DEPARTMENT/TRAINING AND FIREARMS SECTION: .40 Caliber Manufactured Ammunition.

Ultramax Ammunition* - \$43,200.00

*Estimate - Contract approved on unit cost.

Motion--

Brewer moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 6 to 0.

--carried

LICENSES

APPLICATIONS FOR LICENSES:

Special Event

June 8, 9, 2007

Joseph Patrick

Kansas Master's BBQ Championship

Old Cowtown Museum
1871 Sims Park Drive

Motion--carried

Brewer moved to approve the licenses. Motion carried 6 to 0.

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

New Operator

2007

(Consumption off Premises)

Hisham Mubaidin

Wichita Petroleum Inc.

7101 East Lincoln

Renewal

2007

(Consumption on Premises)

Jose L. Mejia
Miguel Reyes

El Jalisco Restaurant
Rostizeria Los Reyes

627 East 47th Street South
512 W 21st Street

Renewal

2007

(Consumption off Premises)

Craig Bergstrom
Craig Bergstrom
Craig Bergstrom

Kum and Go #326
Kum and Go #323
Kum and Go #328

277 South Ridge Road
3405 South West Street
6330 East 21st Street North

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 3

*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 6 to 0.

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. Storm Water Drain #315 to serve Meadowlake Beach Addition north of 63rd Street South, east of Hydraulic (468-84302/751444/485335) Does not affect existing traffic. (District III) - \$828,000.00
- b. Water Distribution System to serve Brentwood South Addition north of Pawnee, east of Webb (448-90252/735342/470015) Does not affect existing traffic. (District II) - \$66,000.00

Motion--carried

Brewer moved to receive and file. Motion carried 6 to 0.

PETITION

CONSTRUCT A SANITARY SEWER LATERAL FOR RIDGE PORT COMMERCIAL PARK ADDITION, NORTH OF 29TH STREET NORTH, WEST OF RIDGE. (DISTRICT V)

Agenda Report No. 07-0363

The Petition has been signed by one owner representing 100% of the improvement district.

The project will provide sanitary sewer service for a new commercial development located north of 29th St. North, west of Ridge.

The Petition totals \$28,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing sanitary sewer service required for new development.

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

Motion--
--carried

Brewer moved that the Petition be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION NO. 07-255

Resolution of findings of advisability and resolution authorizing construction of Lateral 28, Main 19, Southwest Interceptor Sewer (north of 29th Street North, west of Ridge) 468-84349, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 4

PETITION

CONSTRUCT TRAFFIC SIGNALS ON GREENWICH, 1,030' SOUTH OF 13TH STREET. (DISTRICT II)

Agenda Report No. 07-0364

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

The project will install a traffic signal system on Greenwich, south of 13th Street to serve new commercial development.

The Petition totals \$150,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by improving vehicular access to 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 Petition be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION NO. 07-256

Resolution of findings of advisability and resolution authorizing constructing a traffic signal on Greenwich Road located approximately 1030 feet south of 13th Street North to serve the Gateway Center Second Addition and Kiser West Addition (at Greenwich, south of 13th Street) 472-84546, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

PETITION

SANITARY SEWER IN STONEBRIDGE ADDITION, NORTH OF 13TH STREET, WEST OF 159TH STREET EAST. (DISTRICT II)

Agenda Report No. 07-0365

On April 3, 2007, the City Council approved a Petition to construct a sanitary sewer in Stonebridge 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 new Petition represents 100% of the improvement district.

The project will serve a new residential development located north of 13th Street, west of 159th St. East. A sanitary sewer main will also be built that will serve future development north of Stonebridge Addition.

The existing Petition totals \$449,000 with \$377,000 assessed to the improvement district and \$72,000 paid by the Sanitary Sewer Utility. The new Petition totals \$635,000 with \$341,000 assessed to the improvement district and \$294,000 paid by the Sanitary Sewer Utility. The Utility share is for the cost of the sewer main that will be built to serve areas outside the improvement district.

The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for a new residential subdivision.

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

Motion--
--carried

Brewer moved that the new Petition be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 5

RESOLUTION NO. 07-257

Resolution of findings of advisability and resolution authorizing construction of Lateral 1, Main 19, Four Mile Creek Sewer (north of 13th Street, west of 159th Street West) 468-84146, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

PETITION

SANITARY SEWER AND WATER DISTRIBUTION SYSTEM IN K-96 BUSINESS PARK ADDITION, NORTH OF 29TH STREET NORTH, WEST OF GREENWICH. (DISTRICT II)

Agenda Report No. 07-0366

On March 21, 2006, the City Council approved Petitions to construct sanitary sewer and water distribution systems in K-96 Business Park Addition. The scope of the projects has since been expanded to include additional work. The developer has submitted new Petitions with increased budgets. The signatures on the new Petitions represent 100% of the improvement districts.

The projects will serve a new commercial development located north of 29th St. North, west of Greenwich. The waterline will be sized to serve future development outside of the improvement district.

The existing Petitions total \$101,000 with \$55,000 assessed to the improvement districts and \$46,000 paid by the Water Utility. The new Petitions total \$223,500 with \$133,450 assessed to the improvement districts and \$90,050 paid by the Water Utility. The Utility share is for the cost of over sizing the waterline to serve areas outside the improvement district.

The projects address the Efficient Infrastructure goal by providing sanitary sewer and water system improvements required for a new commercial subdivision.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of the 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 6 to 0.

RESOLUTION NO. 07-258

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-90175 (north of 29th Street North, west of Greenwich), in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

RESOLUTION NO. 07-259

Resolution of findings of advisability and resolution authorizing construction of Lateral 8, Main 26, War Industries Sewer, 468-84155 (north of 29th Street North, west of Greenwich), in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 6

PETITION

CONSTRUCT A SANITARY SEWER MAIN TO SERVE AN AREA ON BOTH SIDES OF PAWNEE, EAST OF 127 STREET EAST. (DISTRICT II)

Agenda Report No. 07-0367

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

The project will provide sanitary sewer main service to a developing residential and commercial area on both sides of Pawnee, east of 127th St. East.

The Petition totals \$2,600,000, with \$2,300,200 paid by the Sewer Utility and \$299,800 assessed to the improvement district. City Council policy provides that sanitary sewer mains are funded 50% by the Sewer Utility and 50% by special assessments. However, much of the service area for this project is currently outside the City limits and cannot be assessed at this time. Sewer Main Benefit fees will be assessed to the area as it develops and will recover a large part of the Utility's share the project cost.

This project addresses the Efficient Infrastructure and Economic Vitality goals by facilitating new development that is important to Wichita's continued growth.

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

Motion--

Brewer moved that the Petition be approved; the authorizing Resolution adopted; the Resolution authorizing revenue bonds adopted; the notice of intent to issue revenue bonds approved; and the necessary signatures authorized. Motion carried 6 to 0.

--carried

RESOLUTION NO. 07-260

Resolution of findings of advisability and resolution authorizing construction of Main 21, Four Mile Creek Sewer (at Pawnee, east of 127th Street East) 468-84240, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

RESOLUTION NO. 07-266

A Resolution of the city of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the city, and to issue revenue bonds in a total principal amount which shall not exceed \$2,300,200, 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. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

STREET CLOSURE

CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 07-0368

In accordance with the Community Events Procedure, the event promoter Dr. John Flesher, Oz Racing is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Wichita Cyclefest Criterium Race, May 6, 2007 8:00 am – 7:00 pm

- Great Plains Ventures Business Park, Inc. 5200 E. 35th Street North.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 7

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

Enhance the Quality of Life

Motion--

Brewer moved to approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 6 to 0.

--carried

STREET CLOSURE

CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 07-0369

In accordance with the Community Events Procedure, the event promoter First United Methodist Church is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Block Party on Broadway, May 20, 2007 1:00 pm – 8:00 pm

- 300 block of North Broadway, 3rd Street to 2nd Street

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

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

Enhance the Quality of Life

Motion--

Brewer moved to approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 6 to 0.

--carried

STREET CLOSURE

CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 07-0370

In accordance with the Community Events Procedure, the event promoter special Olympics Kansas is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

2007 Special Olympics Summer Games Fireworks Finale, June 1, 2007 8:00 pm – 10:00 pm

- 21st Street North, Hillside to Yale Street, not including intersections.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

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

Enhance the Quality of Life

Motion--

Brewer moved to approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 6 to 0.

--carried

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 8

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

Agenda Report No. 07-0371

In accordance with the Community Events Procedure, the event promoter First United Methodist Church is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Celebrate 2007, July 4, 2007 Lawrence Dumont Stadium 9:00 am – 11:00 pm

- McLean Boulevard, Douglas Avenue to Maple Street not including intersections.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

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

Enhance the Quality of Life

Motion--

Brewer moved to approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 6 to 0.

--carried

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

Agenda Report No. 07-0372

In accordance with the Community Events Procedure, the event promoter First United Methodist Church is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Freedom '07 West Bank Stage July 4, 2007, 9:00 am – 11:00 pm

- McLean Boulevard, Douglas Avenue to First Street not including intersections.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

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

Enhance the Quality of Life

Motion--

Brewer moved to approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 6 to 0.

--carried

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 9

KLINK

STREET RESURFACING PROJECT ON SOUTHWEST BOULEVARD FROM HOOVER TO I-235. (DISTRICT IV)

Agenda Report No. 07-0373

The Kansas Department of Transportation (KDOT) has available a street resurfacing (KLINK) program for cities which have highway connecting links within the their city limits. The KLINK program is intended for resurfacing improvements on the connecting links, which are maintained by the cities.

KDOT has advised the City of Wichita that KLINK Fiscal year 2008 funds in the amount of \$200,000 have been allocated for a resurfacing project on Southwest Boulevard from Hoover to I-235.

The estimated total cost of this project is \$400,000. The Agreement provides that KDOT will reimburse the City in the amount of fifty percent of the approved construction cost including construction engineering and contingencies, but not to exceed a maximum of \$200,000.

Funding in the amount of \$200,000 is available in the Street Maintenance Operating budget for the local portion of the cost of this project.

This Agreement addresses the Efficient Infrastructure Goal by providing improved, safer highway connecting links within the City.

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 6 to 0.

DRAINAGE OUTFALL DOUGLAS STREET DRAINAGE OUTFALL. (DISTRICTS I & VI)

Agenda Report No. 07-0374

The 2005-2014 Capital Improvement Program adopted by the City Council includes a project to improve the drainage in Old Town and the surrounding area. On May 3, 2005, the City Council approved a \$290,000 budget to begin design of the project. On August 16, 2005, the City Council approved an agreement with Baughman Company to prepare construction plans for phase one of the project, which will extend a concrete box drain along Douglas from the drainage canal to Old Town. On February 7, 2006, the City Council approved an overall design concept for the project. A supplemental agreement with Baughman Company has been prepared to provide construction plans for phase two of the project, which will extend the drainage system into Old Town.

The existing Old Town drainage system was constructed in the 1920's and has long experienced flooding in many locations following high intensity rain events. The 1st and 2nd Street railroad underpasses have frequently caused motorists to stall out in more than two feet of water.

The improvements will provide a new storm sewer main that will provide the necessary capacity for future stormwater improvements in the Old Town area. In addition, the storm water main will intercept a large portion of the drainage north of Douglas and reduce the load on the existing systems in Lewis and Waterman. The project will require pavement to be replaced over the entire route. The supplemental agreement includes the fee necessary to design the relocated water and sewer mains in conflict with the drainage project. Construction is planned to begin this fall.

The estimated project cost is \$7,840,000 with \$6,490,000 paid by General Obligation bonds funded by the Storm Water Utility and \$1,350,000 paid by General Obligation bonds funded by the Old Town Tax Increment Financing District. The fee for the supplemental design contract with Baughman Company is \$180,900.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 10

This project addresses the Efficient Infrastructure and Core Area goals by improving drainage in the Old Town Area.

The Department of Law has approved the Supplemental Agreement and Amending Resolution as to legal form.

Motion--
--carried

Brewer moved that the Project be approved; the Amending Resolution adopted; the Supplemental Agreement approved; and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION NO. 07-261

A Resolution amending Resolution no. 04-598 of the City of Wichita, Kansas, authorizing the issuance of bonds by the City of Wichita at large for public improvements to construct the Douglas Street Outfall (formerly 1st and 2nd Street East Outfall) 468-84060, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

PAWNEE

PAWNEE, WASHINGTON TO HYDRAULIC. (DISTRICT III)-SUPPLEMENTAL.

Agenda Report No. 07-0375

On May 4, 2004, the City entered into an Agreement with MKEC Engineering Consultants, Inc. (MKEC) for designing Pawnee from Washington to Hydraulic. The fee was \$109,900.

MKEC has been asked to provide re-design of storm sewer profiles to avoid conflicts between KGS utility lines and proposed storm sewer. The re-design was performed late in the plan production phase in order to allow the gas line to remain in place instead of having to be relocated. A Supplemental Agreement has been prepared to authorize the additional design services.

Payment to MKEC for this Supplemental Agreement will be made on a lump sum basis of \$2,000, and will be paid by General Obligations Bonds.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a high volume arterial street intersection.

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 6 to 0.

NORTHCREST

CONSTRUCTION ENGINEERING AND STAKING IN NORTHCREST ESTATES ADDITION, EAST OF MERIDIAN, SOUTH OF 53RD STREET NORTH. (DISTRICT VI)-SUPPLEMENTAL.

Agenda Report No. 07-0376

The City Council approved the sewer improvements in Northcrest Estates Addition on October 17, 2006. On February 21, 2007 the City approved an Agreement with Ruggles & Bohm, P.A. (R&B) to design the improvements. The Design Agreement with R&B requires R&B to provide construction engineering and staking services if requested by the City.

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

Payment to R&B will be on a lump sum basis of \$17,300 and will be paid by special assessments.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 11

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of 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 6 to 0.

29TH STREET N.

**29TH STREET NORTH FROM 119TH STREET TO MAIZE ROAD. (DISTRICT V)-
SUPPLEMENTAL.**

Agenda Report No. 07-0377

On May 4, 2004, the City entered into an Agreement with Baughman Company, P.A. for designing 29th Street North from 119th to Maize Road. The fee was \$82,500.

Because of the changing conditions of the area, Baughman has been asked by the City to make some revisions to the plans, such as including a recently installed waterline and new traffic signal at Maize Road. They have also been asked to assist with construction staking and monitoring the project through construction. A Supplemental Agreement has been prepared to authorize the additional services.

Payment to Baughman for this Supplemental Agreement will be made on a lump sum basis of \$42,600, and will be paid by General Obligations Bonds.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a high volume arterial street intersection.

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 6 to 0.

TERRADYNE

**CONSTRUCTION ENGINEERING AND STAKING IN TERRADYNE WEST ADDITION,
NORTH OF CENTRAL, WEST OF 159TH STREET EAST. (DISTRICT II)-
SUPPLEMENTAL.**

Agenda Report No. 07-0378

The City Council approved the water and sanitary sewer improvements in Terradyne West Addition on November 28, 2006. On December 19, 2006 the City approved an Agreement with Poe & Associates of Kansas, Inc. to design the improvements. The Design Agreement with Poe requires Poe to provide construction engineering and staking services if requested by the City.

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

Payment to Poe will be on a lump sum basis of \$28,100 and will be paid by special assessments.

This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering design 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.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 12

Motion-- Brewer moved that the Supplemental Agreement be approved and the necessary signatures
--carried authorized. Motion carried 6 to 0.

119TH ST. WEST

119TH STREET WEST, KELLOGG TO MAPLE. (DISTRICT V)-SUPPLEMENTAL.

Agenda Report No. 07-0384

On December 13, 2005, the City entered into an Agreement with Professional Engineering Consultants, P.A. (PEC) for designing 119th Street West, Kellogg to Maple. The fee was \$145,000.

The 119th Street Bridge over the Calfskin Creek floodway was completed in 2001 and was sized to allow the street to be elevated to reduce the occurrence of the road being overtopped during storm events. Additional survey data and hydraulic modeling will be necessary to verify no impacts will be made to the upstream properties. A Supplemental Agreement has been prepared to authorize the additional design services.

Payment to PEC for this Supplemental Agreement will be made on a lump sum basis of \$7,700, and will be paid by General Obligations Bonds.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a high volume arterial street intersection.

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

Motion-- Brewer moved that the Supplemental Agreement be approved and the necessary signatures authorized.
--carried Motion carried 6 to 0.

MEADOWLAKE

MEADOWLAKE BEACH ADDITION, WEST OF CLIFTON, NORTH OF 63RD STREET SOUTH. (DISTRICT III)

Agenda Report No. 07-0379

The City Council approved the drainage improvements in Meadowlake Beach Addition on February 27, 2007.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of drainage in Meadowlake Beach 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 \$42,800 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 drainage 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-- Brewer moved that the Agreement be approved and the necessary signatures authorized. Motion
--carried carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 13

RIVENDALE

RIVENDALE ADDITION, NORTH OF 55TH STREET SOUTH, WEST OF HYDRAULIC. (DISTRICT III)

Agenda Report No. 07-0380

The City Council approved the water, sewer, and paving improvements in Riverdale Addition on November 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 paving in Rivendale 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 \$73,100 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 6 to 0.

STONEBRIDGE

STONEBRIDGE ADDITION, NORTH OF 13TH STREET, WEST OF 159TH STREET EAST. (DISTRICT II)

Agenda Report No. 07-0381

The City Council approved the sewer improvements in Stonebridge 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 sewer in Stonebridge 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 \$30,100 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 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 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 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 14

WILLOW CREEK

WILLOW CREEK EAST ADDITION, EAST OF GREENWICH, SOUTH OF HARRY. (DISTRICT IV)

Agenda Report No. 07-0382

The City Council approved the water, sewer, drainage, and paving improvements in Willow Creek East Addition on March 13, 2007.

The proposed Agreement between the City and Ruggles & Bohm, P.A. provides for the design of bond financed improvements consisting of water, sewer, drainage, and paving in Willow Creek East Addition. Per Administrative Regulation 1.10, staff recommends that Ruggles & Bohm 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 Ruggles & Bohm will be on a lump sum basis of \$69,700 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sewer, drainage, 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. Motion carried 6 to 0.

LEGACY 3RD.

LEGACY THIRD ADDITION, NORTH OF 47TH STREET SOUTH, WEST OF MERIDIAN. (DISTRICT IV)

Agenda Report No. 07-0383

The City Council approved the water, sewer, drainage and paving improvements in Legacy 3rd Addition on March 13, 2007.

The proposed Agreement between the City and Ruggles & Bohm, P.A. provides for the design of bond financed improvements consisting of water, sewer, drainage and paving in Legacy 3rd Addition. Per Administrative Regulation 1.10, staff recommends that Ruggles & Bohm 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 Ruggles & Bohm will be on a lump sum basis of \$59,794 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, drainage 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 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 15

TRAFFIC SIGNAL

TRAFFIC SIGNALIZATION AT THE INTERSECTION OF HOOVER AND MACARTHUR AND THE INTERCHANGE OF NORTH I-235 AND MERIDIAN. (DISTRICTS IV AND VI)

Agenda Report No. 07-0399

The 2006-07 Capital Improvements Program includes funding for installing and/or upgrading traffic signals systems.

The proposed Agreement between the City and Baughman Company, P.A. provides for designing traffic signalization at the intersection of Hoover & MacArthur and at the interchange of north I-235 & Meridian (both ramps). The Staff Screening and Selection Committee selected Baughman for the design on February 12, 2007.

Payment to Baughman will be on a lump sum basis of \$50,500 and will be paid by General Obligation Bonds.

This project addresses the Efficient Infrastructure goal by improving the traffic flow through major traffic intersections.

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 be authorized
Motion carried 6 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF 221 EAST 13TH STREET NORTH, FOR THE NORTH BROADWAY AND 13TH STREET INTERSECTION IMPROVEMENT PROJECT. (DISTRICT VI)

Agenda Report No. 07-0385

On July 19, 2005, City Council approved a project to improve the intersection of Broadway and 13th Street North. The project will provide left turn lanes at all approaches to the intersection. To accommodate the project, right-of-way must be acquired from eleven tracts of land. A corner clip and a four foot wide strip are required from the property at 221 East 13th Street. One drive will also be closed. This property has 7,488 square feet and is developed with a 475 square foot brick office structure. The take will not directly impact the improvements.

The acquisition was appraised for \$11,100. This equates to \$8.00 per square foot for the land plus compensation for moving a sign and fencing and payment for a temporary easement. The owner countered at \$40,000 predicated on lost utility for car sales due to the loss of access and smaller size. An amount of \$20,420 was agreed to. This value was arrived at by using the lease rate for the site as a car lot instead of the rate applied by the appraiser.

A budget of \$25,420 is requested. This includes \$20,420 for the acquisition and \$5,000 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

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

The Law Department has approved the agreement as to form.

Motion--
--carried

Brewer moved that the agreement be approved and the necessary signatures authorized. Motion carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 16

PROP. ACQUIS.

PARTIAL ACQUISITION OF 221 NORTH WEST STREET FOR THE IMPROVEMENT OF WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)

Agenda Report No. 07-0386

On October 18, 2005 the City Council approved the improvement of West Street between Maple and Central. Existing pavement will be replaced, a center turn lane added, traffic signals will be upgraded and a new storm water sewer will be installed. The project will require the acquisition of all or part of 36 parcels. The proposed road improvement is a 20 foot strip of land along West Street.

The proposed 1,200 square foot of land being acquired from the subject site encompasses part of the parking area and a store advertising sign. Three parking spaces will be lost as a result of the taking. The sign will be personal property and will be relocated by the landowner. The appraiser did not attribute any other damages to the remainder, as the improvements are not impacted. The owner has agreed to accept the appraised offer of \$9,079, or \$5.00 per square foot and \$3,079 as compensation for loss of parking.

The funding source for the project is General Obligation Bonds. A budget of \$15,579 is requested. This includes \$9,079 for the acquisition, \$5,300 for sign relocation and \$1,200 for closing costs, title insurance and other costs.

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

The Law Department has approved the contract as to form.

Motion--
--carried

Brewer moved that the Budget be approved; the Real Estate Purchase Contracts approved; and the necessary signatures authorized. Motion carried 6 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF 225 NORTH WEST STREET FOR THE IMPROVEMENT OF WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)

Agenda Report No. 07-0387

On October 18, 2005 the City Council approved the improvement of West Street between Maple and Central. Existing pavement will be replaced, a center turn lane added, traffic signals will be upgraded and a new storm water sewer will be installed. The project will require the acquisition of all or part of 36 parcels. The proposed road improvement is a 20 foot strip of land along West Street.

The proposed 1,200 square foot of land being acquired from the subject site encompasses part of the parking area and a store advertising sign. Three parking spaces will be lost as a result of the taking. The sign is personal property and will be relocated by the landowner. The appraiser did not attribute any other damages to the remainder as the improvements are not impacted. The owner has agreed to accept the appraised offer of \$9,079, or \$5.00 per square foot and \$3,079 as compensation for loss of parking.

The funding source for the project is General Obligation Bonds. A budget of \$15,735 is requested. This includes \$9,235 for the acquisition, \$5,300 for sign relocation and \$1,200 for closing costs, title insurance and other costs.

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

The Law Department has approved the contract as to form.

Motion--
--carried

Brewer moved that the Budget and the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 17

PROP. ACQUIS.

PARTIAL ACQUISITION OF 232 SOUTH WEST STREET FOR THE IMPROVEMENT OF WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)

Agenda Report No. 07-0388

On October 18, 2005 the City Council approved the improvement of West Street between Maple and Central. Existing pavement will be replaced, a center turn lane added, traffic signals will be upgraded and a new storm water sewer will be installed. The project will require the acquisition of all or part of 36 parcels. The tracts include residential, retail and commercial properties. This particular acquisition is a ten-foot strip of land along West Street at 232 South West Street, a one-story commercial property.

The proposed 800 square foot acquisition was appraised at \$10,450 or \$11.00 per square foot. The appraiser attributed \$1,650 for the loss of two parking spaces, driveway area and parking/drive improvements. The improvements are removed from the acquisition and are not impacted however; the owner's sign will have to be relocated out of the proposed right-of-way. The owner has agreed to accept \$13,500, an additional \$3,050. His counter was solely based on \$15 per square foot. While this amount is high, it is considered reasonable when weighed against the cost of eminent domain.

The funding source for the project is General Obligation Bonds. A budget of \$19,00 is requested. This includes \$13,500 for the acquisition, \$4,00 for the relocation of the sign and \$1,500 for closing costs and title insurance.

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

The Law Department has approved the contract as to form.

Motion--
--carried

Brewer moved that the Budget and the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 6 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF 401/405 NORTH WEST STREET FOR THE IMPROVEMENT OF WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)

Agenda Report No. 07-0389

On October 18, 2005 the City Council approved the improvement of West Street between Maple and Central. Existing pavement will be replaced, a center turn lane added, traffic signals will be upgraded and a new storm water sewer will be installed. The project will require the acquisition of all or part of 36 parcels. The tracts include residential, retail and commercial properties. This particular acquisition is a twenty-foot strip of land along West Street at 401/405 North West Street, a commercial property.

The proposed 2,400 square foot acquisition was appraised at \$15,600, or \$6.50 per square foot. The property is improved with a 1950's single-family residential home converted for commercial use and has two, 1990's warehouse storage facilities on site. The improvements are removed from the acquisition and are not impacted. The owner rejected the offer and countered at \$21,000. This is deemed reasonable because the appraiser had not included any compensation for the loss of three parking spaces and minimal landscaping. The advertising sign will be relocated by the owner.

The funding source for the project is General Obligation Bonds. A budget of \$25,000 is requested. This includes \$21,000 for the acquisition, \$2,500 to relocate the sign and \$1,500 for closing costs and title insurance.

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

The Law Department has approved the contract as to form.

Motion--
--carried

Brewer moved that the Budget and the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 18

(Item 9)
UNSAFE STRUC.

REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES. (DISTRICT VI)

Agenda Report No. 07-0390

On April 2, 2007, the Board of Code Standards and Appeals (BCSA) held a hearing on the following property. This property is considered a dangerous and unsafe structure, and is being presented to schedule a condemnation hearing before the Governing Body.

A violation notice has been issued on this structure; however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove this property.

Property Address

a. 1149 North Market

Council District

VI

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.

This structure has defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause it to be deemed as a dangerous and unsafe building, as required by State Statute for condemnation consideration.

Council Member Fearey Council Member Fearey stated this is a house that is located at 1149 North Market and the BCSA had deferred this for a couple of months while trying to work out some ownership issues. Stated this house has gone on the market and heard that there has been an offer.

Motion-- Fearey moved to adopt the resolution to schedule a hearing and place this matter on the agenda for hearing before the Governing Body on July 3, 2007 instead of the June 5, 2007 meeting at 9:30 a.m. or soon thereafter. Motion carried 6 to 0.

--carried

RESOLUTION NO. 07-262

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lots 245 and 247, on Market Street, Hyde and Ferrell's Addition to Wichita, Sedgwick County, Kansas known as 1149 North Market, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Fearey moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer

TURKEY CREEK

WATER DISTRIBUTION SYSTEM FOR TURKEY CREEK SECOND ADDITION, NORTH OF PAWNEE, WEST OF 119TH STREET WEST. (DISTRICT IV)

Agenda Report No. 07-0391

On March 13, 2007, the City Council approved a project to construct a Water Distribution System for Turkey Creek 2nd Addition. An attempt to award a contract within the budget set by the resolution was not successful. A new Resolution has been prepared to increase the budget.

The project will serve a new residential development located north of Pawnee, west of 119th St. West.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 19

The existing budget totals \$46,000 with \$27,600 assessed to the improvement district and \$18,400 paid by the Water Utility. The revised budget totals \$70,000 with \$28,000 assessed to the improvement district and \$42,000 paid by the Water Utility. The Utility share is for the cost of over sizing the pipe to serve future development outside the improvement district.

This project will address the Efficient Infrastructure goal by providing water service to a new residential development.

State Statutes authorize the City Council to increase funding for the project.

Motion--
--carried

Brewer moved that the Resolution be adopted and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION NO. 07-263

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-89959 (north of Pawnee, west of 119th Street West) in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

FUND BUDGET

STATE OFFICE BUILDING FUND BUDGET ADJUSTMENT. (DISTRICT VI)

Agenda Report No. 07-0392

The State Office Building and garage facilities are maintained by the City's Public Works Department. Revenue from the State finances the custodial, maintenance and operating expenses of the State Office Building and garage. Under the terms of the lease, the City's annual operating expenses in excess of the maximum amounts stated in the lease are to be reimbursed by the State during the end-of-year reconciliation.

In addition to their day-to-day maintenance responsibilities, Public Works technicians monitor major building systems for mechanical and structural soundness. After a recent review of the State Office Building basement SRS Closed Files area, some water leaks were discovered coming into the area from the Broadway street sidewalk. The basement protrudes out under this sidewalk. The sidewalk has a membrane water vapor barrier under the walk pavers. This membrane has deteriorated to the point of allowing the water to pass through it into the buildings basement. Attempts have been made in past years to stop this leak with some success, but now we are into the replacement stage. The extent and severity of the leaks have progressively gotten worse over the past several years. Our tenant, the State of Kansas, and SRS, have been informed of the recommended repairs to this area and are in agreement with our opinion and cost estimates.

The State Office Building Fund 2006 Adopted Budget includes a contingency for major building repairs. In order to begin the sidewalk repairs/pavers replacement project immediately, a budget transfer is required. The cost of the project will be \$90,000. This cost estimate includes the base and both alternates listed in the set of specifications. All transfers would occur within the State Office Building Fund.

Ensure Efficient Infrastructure – Maintain and Optimize Public Facilities and Assets. Due to the loss of space consideration to the tenant, any further delay in completing the repairs could have a significantly adverse impact on our ability to maintain a cohesive customer service relationship with our tenant.

Budget transfers over \$25,000 require City Council approval.

Motion--carried

Brewer moved that the budget transfer be approved. Motion carried 6 to 0..

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 20

CSBG

COMMUNITY SERVICES BLOCK GRANT TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Agenda Report No. 07-0393

The City's Career Development Office (CDO) has developed a proposal for a competitive federal grant to provide Earned Income Tax Credit and other Asset Formation Opportunities, in cooperation with the Consumer Credit Counseling Service (CCCS) and the Benefit Bank.

Analysis: Services to local low-income residents through this grant will include:

- EITC outreach
- Free tax preparation
- Financial literacy
- Financial education
- Life skills training

The application is for \$50,000 a year for three years. CDO, CCCS, and the Benefit Bank will share the funds. No local funds are required.

This proposal will impact Economic Vitality and Affordable Living, sustain affordable living, giving program participants the tools to increase and make better use of their income.

The City of Wichita will be the applicant agency and meets all grant requirements.

Motion--
--carried

Brewer moved that the application for submittal be approved and the necessary signatures authorized. Motion carried 6 to 0.

UNIVERSITY ST.

UNIVERSITY STREET PAVING, BETWEEN MAPLE LANE AND ARAPAHO. (DISTRICT V)

Agenda Report No. 07-0394

On November 1, 2005, the City Council approved a Petition to pave University, between Maple Lane and Arapaho. An attempt to award a construction contract within the budget set by the Petition was not successful. The owner of an undeveloped addition within the improvement district has agreed to an increase of the special assessments to his property to increase the project budget. The assessment to other properties in the improvement district is not affected.

The project will provide paved access to a partially developed residential area.

The existing Petition totals \$75,000 with the total assessed to the improvement district. The new Petition totals \$80,000 with the total assessed to the improvement district.

The project addresses the Efficient Infrastructure goal by providing street paving in a partially developed area.

State Statutes provide the City Council the authority to modify the project budget and reallocate special assessments by Resolution.

Motion--carried

Brewer moved that the Resolution be adopted. Motion carried 6 to 0.

RESOLUTION NO. 07-264

Resolution of findings of advisability and resolution authorizing constructing pavement on University from Maple Lane to Arapaho (south of Maple, east of Ridge) 472-84299, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Longwell, Gray, Schlapp, Skelton, and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 21

DEDICATION

DEDICATION OF PROPERTY NEAR 55TH STREET SOUTH AND CLIFTON FOR PUBLIC PURPOSES. (DISTRICT III)

Agenda Report No. 07-0395

Jay Russell has offered to donate land platted as Clifton Heights Addition, Clifton Heights Commercial Addition and Clifton Heights 2nd Commercial Addition plus some adjacent unplatted land to the City for public purposes. The parcel is located between Southeast Boulevard (K-15) and Clifton north of 55th Street South. Access is from 55th Street South or Clifton. The site encompasses approximately 106 acres. The developer has agreed to construct a lake on the site. The Park Board reviewed the donation and voted to recommend acceptance. The Park Board also voted that land be used for park purposes.

The property, while platted, is currently undeveloped. The land is well positioned in a rapidly growing part of the City. The lake will be built in two phases, one this year and the second within five years. The construction will require an access easement to the developer. This easement will be finalized when the exact details of the lake are determined. The lake will be incorporated into a drainage program for the area being constructed by Sedgwick County.

There will be minimal maintenance costs due to the undeveloped nature of the property. There are currently no special assessments associated with the property.

Acceptance of this donation will assist the City in meeting future infrastructure and quality of life needs in the area.

The Law Department has approved the deed and easement as to form.

Motion--
--carried

Brewer moved that the donation be accepted and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION

ORDER OF SUCCESSION RESOLUTION.

Motion--
--carried

Brewer moved that the Resolution be adopted and the necessary signatures authorized. Motion carried 6 to 0.

RESOLUTION NO. 07-265

A Resolution establishing the order of succession as mayor of the city of Wichita, Kansas, in the absence from the city of the mayor and the vice mayor.

WHEREAS, Section 2.04.032 of the City Code provides that the City Council is to designate from the membership thereof, members to serve as Mayor in the absence from the City of the Mayor, Vice Mayor, or other Council Members:

Now, therefore, be it resolved by the City Council of Wichita, Kansas:

Section 1. That the order of succession as Mayor of the City of Wichita, Kansas, in the absence therefrom of the Mayor and the Vice Mayor or other Council member shall be:

Council Member Skelton
Council Member Schlapp
Council Member Longwell
Council Member Gray

Section 2. This Resolution shall be in force and effect after its due passage.

Adopted at Wichita, Kansas, this April 24, 2007.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 22

ORDINANCES

SECOND READING ORDINANCES: (APRIL 17, 2007)

- a. Acquisition by Eminent Domain of Land required for the MacArthur, Meridian to Seneca Improvement Project (District IV)

ORDINANCE NO. 47-463

An Ordinance providing for the acquisition by eminent domain of certain private property and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of the planned MacArthur road improvement project between Seneca and meridian in the City of Wichita, Sedgwick County, Kansas; designating the land required for such purposes and directing the city attorney to file a petition in the district court of Sedgwick County, Kansas, for acquisition of the land therein taken and providing for payment of the cost thereof, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer.

- b. 29th Street North Improvement Between 119th Street West and Maize. (District V)

ORDINANCE NO. 47-464

An Ordinance amending ordinance no. 46-557 of the City of Wichita, Kansas declaring 29th Street North, between 119th Street West and Maize (472-84185) to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer.

- c. Neighborhood Revitalization Areas and Local Investment Areas. (Districts I, III, IV, and VI)

ORDINANCE NO. 47-467

An Ordinance of the City of Wichita, Kansas to adopt a neighborhood revitalization plan and designate the areas within the City of Wichita, Kansas, to be included within such plan, and to authorize and approve a certain interlocal agreement by and among the City of Wichita, Kansas, the Board of County Commissioners of Sedgwick County, Kansas and Unified School District No.259, Sedgwick County, Kansas, pertaining to administration of the neighborhood revitalization plan and the issuance of tax rebates thereunder, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer.

- d. PUD2006-03-Create PUD#23 Firepoint Planned Unit Development. Generally located north of K-96 and west of Webb Road along Toben Street North. (District II)

ORDINANCE NO. 47-468

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, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer. (PUD2006-03)

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 23

- e. ZON2004-61-Plat of Walsh Addition located east of West Street and north of Maple.
(District VI)

ORDINANCE NO. 47-469

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, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer. (ZON2004-61)

- f. ZON2004-29-Plat of Hunter's Health Clinic Second Addition, located on the north side of Central and east of Hydraulic. (District I)

ORDINANCE NO. 47-470

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, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, and Brewer. (ZON2004-29)

PLANNING AGENDA

Motion--
--carried

Brewer moved to approve Planning Consent items 17-19 in accordance to the recommended action shown thereon. Motion carried 6 to 0.

ZON2005-00050

ZON2005-00050-ZONE CHANGE FROM "SF-5" SINGLE-FAMILY RESIDENTIAL, "TF-3" TWO-FAMILY RESIDENTIAL AND "GO" GENERAL OFFICE TO "LC" LIMITED COMMERCIAL, WITH A PROTECTIVE OVERLAY. LOCATED AT THE NORTHEAST CORNER OF 32ND STREET SOUTH AND EXPOSITION. (DISTRICT IV)

Agenda Report No. 07-0396

MAPC Recommendations: Approve (10-0), subject to provisions of Protective Overlay District #165 and a 48 square foot building sign on the south elevation.

MAPD Staff Recommendations: Approve, subject to Protective Overlay District #165.

At their January 10, 2006 meeting, the City Council considered the applicants requested "LC" Limited Commercial zoning on Lots 6, 7, 8, Block A, Loma-Linda Gardens Addition and a portion of Lot 1, Dillon 10th Addition, with the additional provisions of Protective Overlay #165. The Council moved (7-0) that the findings of the MAPC be adopted, the zone change subject to the additional provisions of PO #165 be approved and the Planning Department be instructed to forward the ordinance for first reading when the required dedications and covenant had been provided to the Planning Department. Staff has received the required dedications and covenant and has submitted the ordinance for first reading and subsequent publication.

At its December 8, 2005 meeting, the MAPC voted (10-0) to recommend approval of the requested "LC" zoning subject to the Protective Overlay, as agreed upon by Staff and the applicant. They also approved it with the addition of a 48 square foot building sign on the south elevation. No one spoke against the requested zoning at the MAPC meeting, and Staff has received no written protest against the requested zoning.

Promote Economic Vitality and Affordable Living.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 24

The ordinance has been reviewed and approved as to form by the Law Department. Per the provisions of the Protective Overlay, a restrictive covenant, dedications of complete access control, cross lot access, setbacks and a utility easement by separate instrument will be recorded with the Register of Deeds.

Motion--

Brewer moved that Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of the Protective Overlay; place the ordinance establishing the zone change on first reading. Motion carried 6 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. (ZON2005-00050)

ZON2006-00015

ZON2006-00015-ZONE CHANGE FROM "TF-3" TWO-FAMILY RESIDENTIAL AND "GO" GENERAL OFFICE TO "LC" LIMITED COMMERCIAL WITH A PROTECTIVE OVERLAY. GENERALLY LOCATED NORTHEAST OF THE SENECA AND DORA INTERSECTION. (DISTRICT IV)

Agenda Report No. 07-0397

MAPC Recommendations: Approve (12-0), subject to staff recommendations.

MAPD Staff Recommendations: Approve, subject to the provisions of the Protective Overlay.

DAB Recommendations: Approve (7-0, one abstention), subject to staff recommendations.

The applicants request a zone change from "TF-3" Duplex Residential and "GO" General Office to "LC" Limited Commercial on the site: Lots 5, 6, 7 in West Park Gardens Addition. The lots are narrow and deep 73-feet by 389.8 to 398.6-feet. The applicants recently removed three vacant and condemned single-family residences from the site (per GIS, built 1910, 1931, 1940), which are now vacant. The site is located between a salvage yard on its east side and Seneca Avenue on its west side, almost mid-mile between Harry Street and Pawnee Avenue.

As noted, development abutting the east side of the site include what was railroad right-of-way (ROW), which has been leased out (by the City) to Wichita Iron and Metal, a salvage yard, on a month to month lease; the lease is projected to be long term, as the salvage yard has been at this location since the 1980s. The salvage yard is zoned "LI" Limited Industrial, except for a "TF-3" zoned 50-foot buffer between it and the subject site. The City's Public Works Central Maintenance facility ("LI") finishes off development east of the site to McLean Boulevard. South of the site is a 1.28-acre "LC" zoned lot (Z-2859, "A" Two-family Residential to "LC" Light Commercial, 1988) developed as single-family residential. South of this "LC" zoned property and between a "LC" zoned saving and loan business (Z-3213, "GO" General Office to "LC", 1997), there are at least seven "TF-3" zoned single-family residences, most of them all brick, built between 1930 and 1940. Approval of Z-2859 and Z-3213 included dedication of 20-feet of street ROW. Beginning north of the subject site there are two vacant lots zoned "TF-3" and a single-family residence (built 1922, wood siding) zoned "TF-3". Beyond these three properties, the east side of Seneca is almost stripped out up to Harry Street with mostly "LC" zoning, some "GO" and "NR" Neighborhood Retail and a "GC" General Commercial zoned property.

Properties west of the site, across Seneca, include Aley Park (a city park), are zoned "MF-29" Multi-family Residential, the "LC" zoned Seneca Bowl, free standing retail and strip retail. Aley Park is directly opposite the site and has a municipal swimming pool, community facilities, ball fields and play ground. Stanley Elementary School ("MF-29") abuts the northwest corner of the 15.33-acre park. North of the park, across Esthner Avenue, is a neighborhood of mostly single-family residences zoned "MF-29".

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 25

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, the Unified Zoning Code's (UZC) landscaping, screening and any other applicable standards.

There were no speakers in opposition to the request at the DAB IV meeting on July 6, 2006. The DAB voted unanimously (7-0, one abstention) to recommend approval of the zone change from "GO" General Office and "TF-3" Duplex Residential to "LC" Limited Commercial, subject to the provisions of Protective Overlay "PO" #175. There were no speakers in opposition to the request at the MAPC meeting on July 20, 2006. The MAPC voted unanimously (12-0) to recommend approval of the zone change from "GO" General Office and "TF-3" Duplex Residential to "LC" Limited Commercial, subject to the provisions of Protective Overlay "PO" #175. No protest petitions have been submitted and staff has received no telephone calls protesting the proposed zone change. The provisions of "PO" #175 are:

1. Prohibited uses on the site include: limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and indoor entertainment, second hand store, service station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops. As defined in the UZC, a pawnshop is an establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the sale of such property. A "quick cash" (a recently introduced business in the community) business that loans money with title to homes, automobiles or other property as collateral to secure the loan and does not engage in deposit banking is considered a pawn shop and would be a prohibited use, per the Protective Overlay.
2. On-site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.
3. A restrictive covenant binding and tying the properties together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.
4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 5, 6, and 7, West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.
5. Signage on the site will be as allowed in the "LC" zoning district, but be only monument type of signage. No building signage is permitted on the north or south sides of the building.
6. Dedication of 20-feet of right-of-way along Lots 5 and 7's (West Park Gardens Addition) Seneca Avenue's frontage.

Promote Economic Vitality and Affordable Living.

The ordinance has been reviewed and approved as to form by the Law Department. Per the provisions of the Protective Overlay, a restrictive covenant, a dedication of complete access control by separate instrument and a dedication of right-of-way by separate instrument will be recorded with the Register of Deeds.

Motion--

--carried

Brewer moved to concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of the Protective Overlay; place the ordinance establishing the zone change on first reading. Motion carried 6 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 26

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. (ZON2006-00015)

ZON2006-00056

ZON2006-00056-ZONE CHANGE FROM "TF-3" TWO-FAMILY RESIDENTIAL TO "LC" LIMITED COMMERCIAL WITH A PROTECTIVE OVERLAY LOCATED SOUTHEAST OF THE SENECA STREET AND ESTHNER AVENUE INTERSECTION. (DISTRICT IV)

Agenda Report No. 07-0398

MAPC Recommendations: Approve, subject to staff recommendations (12-0).

MAPD Staff Recommendations: Approve, subject to the provisions of the Protective Overlay.

The applicant requests a zone change from "TF-3" Duplex Residential to "LC" Limited Commercial with a Protective Overlay ("PO") on the site, Lots 3 and 4 in West Park Gardens Addition. The lots are vacant. The site is located between a salvage yard on its east side and Seneca Avenue on its west side, almost mid-mile between Harry Street and Pawnee Avenue. This zoning request is associated with the applicant's three southern, abutting properties, which were approved for a zone change to "LC" with a "PO", ZON2006-15, "PO" # 175, by the MAPC at their July 20, 2006 meeting. ZON2006-15, PO #175 was also approved by DAB IV at their July 5, 2006 meeting. There were no protests registered at either meeting and both the MAPC and DAB IV gave unanimous approval, thus the current request was not scheduled for review by DAB IV. The applicant proposes to develop these properties and the abutting southern properties as one site.

As noted, development abutting the east side of the site include what was railroad right-of-way (ROW), which has been leased out (by the City) to Wichita Iron and Metal, a salvage yard, on a month to month lease; the lease is projected to be long term, as the salvage yard has been at this location since the 1980s. The salvage yard is zoned "LI" Limited Industrial, except for a "TF-3" zoned 50-foot buffer between it and the site. The City's Public Works' Central Maintenance facility ("LI") finishes off development east of the site to McLean Boulevard. Abutting the south side of the site are the previously mentioned properties owned by the applicant. North of the subject site there is a "TF-3" zoned lot developed with a single-family residence, built in 1922. This is the last residential zoned property on the east side of Seneca (which has been almost entirely striped out and zoned "GO" General Office, "NR" Neighborhood Residential and one "GC" General Commercial site) north to Harry Street.

Directly west of the site, across Seneca, is Aley Park (a city park), which is zoned "MF-29" Multi-family Residential. Aley has a municipal swimming pool, community facilities, ball fields and play ground. Stanley Elementary School ("MF-29") abuts the northwest corner of the 15.33-acre park. North of the park, across Esthner Avenue, northwest of the site, is a neighborhood of mostly single-family residences zoned "MF-29". Further southwest of the site, across Seneca, is the "LC" zoned Seneca Bowl, free standing retail and strip retail.

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, the Unified Zoning Code's (UZC) landscaping, screening and any other applicable codes and development standards.

There were no speakers in opposition to the request at the MAPC meeting on January 18, 2007. The MAPC voted unanimously (12-0) to recommend approval of the zone change from "TF-3" Duplex Residential, subject to the provisions of "PO" #185. No protest petitions have been submitted and staff has received no telephone calls protesting the proposed zone change. The provisions of "PO" #185 are:

1. Prohibited uses on the site include: limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and indoor entertainment, second hand store, service

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 27

station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops.

2. On-site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.

3. A restrictive covenant binding and tying Lots 3 & 4, West Park Gardens Addition together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.

4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 3, 4, 5, 6, and 7, all in the West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.

5. Signage on the site will be as allowed in the "LC" zoning district, but be only a monument type of signage. No building signage on its north or south sides of the building.

6. Dedication of 20-feet of right-of-way along Lots 3 and 4's (West Park Gardens Addition) Seneca Avenue's frontage.

Promote Economic Vitality and Affordable Living.

The ordinance has been reviewed and approved as to form by the Law Department. Per the provisions of the Protective Overlay a restrictive covenant, a dedication of complete access control by separate instrument and a dedication of right-of-way by separate instrument will be recorded with the Register of Deeds.

Motion--

Brewer moved to concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of the Protective Overlay; place the ordinance establishing the zone change on first reading. Motion carried 6 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. (ZON2006-00056)

UNFINISHED BUSINESS

CLEAR CHANNEL

OUTDOOR ADVERTISING LEASE, 8006 EAST KELLOGG. (DISTRICT II)
(DEFERRED APRIL 17, 2007)

John Philbrick

Property Management Administrator reviewed the item.

Agenda Report No. 07-0346a.

In 2002, the City acquired land and improvements at 8006 and 8018 East Kellogg for the Kellogg/Rock Road Improvement project. Four separate parties owned the site and the improvements - a fast food restaurant, a car wash and an outdoor advertising structure. As part of the global settlement, the owner of the outdoor advertising structure was to be allowed to relocate their facility onto land not utilized by the highway project in lieu of payment for the loss of their leasehold. The right of way needs have been determined, allowing the relocation of the advertising structure.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 28

A 25-foot by 30.3-foot site for the advertising structure has been delineated at the north edge of the parcel 20 feet east of Rock Road right of way. Permits have been granted for a 24-foot wide by 12-foot tall sign face at this location. The structure will be orientated towards Rock Road. The outdoor advertising company will enter into a lease for this site with the City. The lease has a term of 30 years and calls for rent of \$5,000 per year with 10% increases every 5 years or 10% of gross advertising sales revenue whichever is greater.

The lease will provide income to the City through rental revenue.

This transaction promotes efficient infrastructure by providing efficient acquisition of needed right of way.

The Law Department has approved the lease as to form.

Motion--
--carried

Schlapp moved that the lease be approved and the necessary signatures authorized. Motion carried 6 to 0.

SUNDAY SALES

SUNDAY LIQUOR SALES. (DEFERRED APRIL 17, 2007)

Joe Lang

Law Department reviewed the item.

Agenda Report No. 07-0362a.

In 2005, the Kansas Legislature enacted a law giving local cities and counties the option to allow the sale of cereal malt beverage (beer) and alcoholic liquor at retail on Sundays. (The law applies to sales at retail in the original packages and does not affect the sale by the drink or consumption on the premises.) Sunday sales may be authorized only by City Council action. Citizens can file protest petitions if the Council passes an ordinance allowing Sunday sales or restricting Sunday sales.

The City of Wichita currently has local ordinances that also prohibit the retail sale of alcoholic beverages on Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The days and times of sale are otherwise set by the State Liquor Control Act. The City also currently has local ordinances that prohibit the retail sale of cereal malt beverages on Sundays. To opt into and adopt the provisions of the new State law, these local ordinances will also need to be amended.

The first ordinance submitted for consideration provides for the City of Wichita to opt into the provisions of the State law expanding the days that retail sale of packaged cereal malt beverage and alcoholic liquor are allowed. Cereal malt beverages could be sold in the original package on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 pm. Alcoholic liquor could be sold in the original package on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 pm; sale will also be allowed on Memorial Day, Independence Day, and Labor Day. This ordinance will allow (but not require) retail stores and liquor stores to open and sell these products at any or all of these additional dates and times.

The Sunday sales ordinance will go into effect on the 61st day after passage and two publications, unless there is a petition submitted asking for a referendum on the ordinance. If, within 60 days of publication, a petition is signed by a number of voters not less than 5% of those voting for President in 2004, the City Council shall call a special election to submit the question of Sunday sales to the voters. If the City Council anticipates that it would want to set a special election on August 7, 2007, the date of the proposed special election for County gaming issues, Council action will need to be taken by specific dates: The final reading of the ordinance will have to be timely so that final publication of the ordinance can take place by May 3. This will allow 60 days, until July 2, for any petitions to be filed. These deadlines are necessary for the County Election Commissioner to get a Sunday Sales question on the August 7 ballot. If Council wishes to meet this deadline, a Declaration of Emergency will be necessary to pass the ordinance in a timely manner.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 29

The second ordinance submitted is a simple ordinance that amends current City ordinances (Sec. 4.04.020 and 4.12.110) to conform to the provisions adopted in the first ordinance. This ordinance does not become effective unless and until the first ordinance becomes law. Other provisions on date and times of sales remain the same (including continued prohibition of retail sale of alcoholic liquor on Easter Day, Thanksgiving Day, and Christmas Day).

There is no direct financial impact of expanding the dates of sale of alcoholic liquor and cereal malt beverages, unless a sufficient petition is filed requesting a special election. The City would pay for the cost of an election unless it is held at the same time as a Countywide election. There may be indirect impacts on alcoholic liquor tax income at the State level, which may indirectly affect local distribution of taxes.

Economic Vitality. These ordinances may provide increased opportunities to remain competitive to local businesses.

The ordinances have been prepared and approved as to form by the Law Department. They are consistent with the requirements of State law to expand the dates of sale. The Sunday sales ordinance must be adopted in the same manner as a charter ordinance, requiring a 2/3 vote of the Council.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Cybil Strum

Ms. Strum, 326 North Walnut, stated she is against this and urged the Council not to approve this today.

Jeff Browe

Mr. Browe stated he owns a liquor store at 3015 East Douglas and is asking for some accommodation from the Council on this ordinance to amend the operating hours of 9:00 a.m. to 11:00 p.m. during the week to 9:00 a.m. to 10:00 p.m. and use those hours on Sunday. Stated maybe with the change to allow the retailers to open on Saturdays until 11:00 p.m. but noon to 6:00 p.m. on Sundays. Stated we would go from 84 open hours to 85, which keeps the liquor retailers in the City's labor cost at roughly the same amount. Stated that is what everyone is concerned about is the increase in cost for their labor. Stated they are not necessarily lobbying against Sunday sales, but would like some accommodation to make it more palatable to their business.

Jim Burgardt

Mr. Burgardt stated he is the owner and operator of Burgardt Liquor at 3027 East Pawnee. Stated he personally is against Sunday sales but knows it is inevitable so he would like to see some discussion regarding the economic impact on retailers being open more hours. Stated he feels that some compromises could be made to benefit the retailers. Stated consumption would not go up and then they would just be spreading the business out and agrees with Mr. Browe on shortening the hours during the week and shifting those hours to Sunday.

John Ivy

Mr. Ivy stated he is the sales manager for Quik Trip and is here on their behalf and that they are in favor of Sunday Liquor Sales because it is a convenience for their customers. Stated every square inch of their cooler space is very expensive and it does not make sense while they incur this cost to refrigerate and store this product but cannot sell it but their customers can go across the street to a restaurant or the surrounding City and buy or consume the same product. Stated it is not a mandate on businesses or consumers. The businesses will have the right to sell the product and the adult customer will have the right to purchase the product. Stated many communities in Kansas already allow Sunday sales and it has been good for their business and good for the adult consumer.

Louis Manns

Mr. Manns stated KAKE had done a poll and sampling of what the people what be interested in as far as Sunday sales and feels that the liquor store owners did not get equal time to see what they would like to have. Stated he does not want Sunday sales because he does not want to lose a day off and it is just a worry for him when the store is open whether he is there or not. Stated the main reason that most liquor stores do not want Sunday sales is due to economics because it will be an additional expense and the sales will mostly come from Saturdays and Mondays to fill Sunday sales and there will be very minor additional revenue to offset that expense. Stated he is asking that a motion be made to amend the current ordinance to reduce the hours during the week from 11:00 p.m. to 10:00 p.m. and save those six hours for Sundays from noon to 6:00 p.m. Stated he feels that there would be some social benefits from this as well for the City of Wichita, such as less DUIs and safer streets.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 30

- Tom Jacob Mr. Jacob stated he owns Jacob Liquor Exchange at 3049 North Rock Road and 10221 West 21st Street and is glad to see that this is now only requiring a simple majority vote instead of five votes. Stated that he understands that the City Attorney's office is now saying that there is no option for putting this on the ballot if the City Council votes no today. Stated there would be no petition for Sunday sales that can be given to the public.
- Joe Lang City Attorney explained that the only way this comes to a ballot is if the City Council passes an ordinance and there is a protest petition.
- Tom Jacob Mr. Jacob stated the decision regarding a store's business hours is made by the store owners and the City does not need to regulate it any more than what the State does. Stated if Council does pass this today, the public will have the opportunity to protest it and if they do not it will go into effect, if they do protest it then there will be a vote. Stated the public opinion polls on Channel 12 showed 63% of the public in favor of Sunday liquor sales and urged the City Council to pass it.
- Council Member Skelton Council Member Skelton stated he asked last week if the ordinance was not passed, there could be a counter-protest petition based on that no vote just as a counter-protest petition could be initiated on a yes vote. Asked for clarification.
- Joe Lang City Attorney explained the State Statute does not allow for an initiative absent of Council action. Stated there is no initiative process in the State Statute and they misread the statute and gave incorrect information and corrected it in the agenda report for today. Stated only Council action can precipitate a petition drive and if the Council votes no, that would be the end of it and the public cannot initiate their own petition to ask for an election. Stated if the Council was to remove Sunday liquor sales after approving it, there could be a petition on that action. Stated there is two problems, a poorly crafted State Statute and some problems of interpreting it in his own office.
- John Davis Mr. Davis stated he is a retailer in Wichita and past President of the Kansas Association Beverage Retailers and is against the Sunday Liquor Sales. Asked the City Council to consider some of the options that have been previously discussed by his fellow retailers and asked the City Council to consider not passing Sunday liquor sales.
- Todd (inaudible) Stated he is a representative of Presto Convenience Stores and they are in support of allowing Sunday liquor sales.
- Council Member Longwell Council Member Longwell asked if changing the operation hours for the week day is something that can be brought back to the Council at any point in time.
- Joe Lang City Attorney stated yes it can be brought up at any time and could also be amended into the second ordinance that the Council has in front of them and considered on second reading or it can be brought forward as a new ordinance.
- Council Member Longwell Council Member Longwell stated there is not a sense of urgency that needs to be "tackled" today and the sense of urgency that he feels for the Council to vote on today is to give people the opportunity to bring a protest petition by the August 7th ballot, which would save the City \$90,000.00. Stated there is not that same sense of urgency to "tackle" the weekday hours.
- Joe Lang City Attorney stated that is correct it would be a simple ordinance that the Council can consider at any time.
- Council Member Fearey Council Member Fearey stated she would rather go ahead and do the charter ordinance so that if a protest petition is needed that can be done and then that gives the public more time to come to the Council and talk about the hour adjustment.
- Motion-- Brewer moved to declare an emergency and adopt the Sunday Sales Ordinance on first reading and approve first reading of the ordinance amending the current City Code.

CITY COUNCIL PROCEEDINGS

JOURNAL 189

APRIL 24, 2007

PAGE 31

Council Member Skelton Council Member Skelton stated he would not be supporting the motion for the following reasons: the changes in the legal advice have complicated things, there should have been more discussion for a longer period of time before this came up last week, impact on the Sunday sales concerns him, and it is best for him to stick to his position and not support Sunday sales.

Council Member Longwell Council Member Longwell stated he is not opposed to looking at altering the operating hours but thinks we could use a little more discussion on that and is willing to bring that back at a different time and does not feel the sense of urgency to "tackle" that issue today. Stated the whole business climate involving Sunday liquor sales has changed dramatically over the last couple of years and when we have stores that are less than 2.5 miles from Maize, it is matter of fairness to him. Stated if it were up to him he would not have Sunday sales and thinks it is a State issue and if the State were to regulate no Sunday sales that would be fair but for him to say that he represents west Wichita and they cannot open on Sundays when their neighbor less than 2.5 miles away can open on Sundays, it is a matter of fairness.

--carried Motion carried 5 to 1, (Skelton-no).

ORDINANCE NO. 47-466

An Ordinance of the City of Wichita to expand the days of sale of cereal malt beverage in the original package and the days of sale at retail of alcoholic liquor in the original package. Brewer moved that the Declaration of Emergency be approved and the Ordinance be placed upon its passage and adopted on first reading. Motion carried 5 to 1, Yeas; Fearey, Gray, Longwell, Schlapp; Brewer, (Skelton, no).

ORDINANCE

An ordinance of the City of Wichita pertaining to date and time of sale of alcoholic liquor and cereal malt beverage, amending Sections 4.04.020 and 4.12.010 of the code of the City of Wichita, and repealing the originals of said Sections, introduced and under the rules laid over.

Motion--carried Brewer moved to adjourn the meeting. Motion carried 6 to 0.

ADJOURNMENT There being no further business to come before the Council, the meeting adjourned at 10:14 a.m.

Respectfully submitted,

Karen Sublett, CMC
City Clerk