

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, October 2, 2001
Tuesday, 9:03 A.M.

The City Council met in regular session with Mayor Knight in the Chair. Council Members Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, present.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Burnett, City Clerk; present.

Rev. Carolyn Rose Brown, First Utilitarian Universalist Church gave the invocation.

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

Minutes -- approved The Minutes of the regular meeting of September 25, 2001, were approved 7 to 0.

AWARDS AND PRESENTATIONS

PROCLAMATIONS Proclamations previously approved were presented.

RECOGNITION Special recognition – Black Aviation Hall of Fame.

RECOGNITION Dr. Devendra Makwana, Deputy Municipal Commissioner from Ahmedabad, India, was recognized.

NEW BUSINESS

HOUSING **HOUSING FIVE-YEAR AND YEAR 2002 AGENCY PLAN.**

Roy Johnson Housing Services Director reviewed the Item.

Agenda Report No. 01-1105.

On October 21, 1998, the Quality Housing and Work Responsibility Act of 1998 (QHWRA) was signed into law as part of the FY 1999 Appropriations Bill. One provision of the Act is the mandate for public housing authorities to prepare a five-year plan showing the needs and goals for that period (update every five years) and a more detailed annual operating plan. The annual plan must include, among other things, information on the housing needs of the locality, population served, method of rent determination, operation policies and procedures, capital improvements, unmet housing needs of families with income less than 30 percent of median income, homeownership efforts and efforts to coordinate the program, and other items. The Development Coordinating Committee has reviewed the proposed 2002 improvements.

Section 511 of the QHWRA requires the housing authorities to conduct a public hearing to discuss the housing authority plans and to invite public comment regarding the plans. In the event that the City Council receives public comment, written or oral, which is deemed significant enough to amend the plans, the City Council may amend the plans and certify the plans as amended. After the City Council has considered comments submitted at the hearing and approve the WHA Five-Year and Year 2002 Annual Plans, subject to any amendments, the WHA staff will transmit the policies and programs via an electronic template for submission. The electronic submission is due to HUD by October 15, 2001.

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The certification of the Five-Year and Year 2002 Annual Plans will bring the WHA into compliance with the Quality Housing and Work Responsibility Act of 1998.

The 2002 Capital Fund Budget is a part of the 2002 Annual Plan and represents the official approval of the Wichita Housing Authority's Governing Board.

Mayor Knight

Mayor Knight inquired if anyone wished to be heard and no one appeared.

Motion --

Knight moved that the public hearing be closed and the Resolution authorizing the necessary signatures relative to required certifications for the submission of the Wichita Housing Authority Five-Year and Year 2001 Annual Agency Plans be adopted. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 01-417

A Resolution for PHA Certifications of Compliance with the PHA Plans and related regulations Board Resolution to accompany the PHA Plan, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

CITY COUNCIL AGENDA

CONDEMNATION

UNSAFE STRUCTURE – 1213 SOUTH ST. FRANCIS. (REQUESTED BY COUNCIL MEMBER BREWER)

Chris Cherches

City Manager reviewed the Item.

Agenda Report No. 01-1106.

The dangerous and unsafe property at 1213 South St. Francis was first before City Council on July 10, 2001. The owner, Thomas Wiggins, appeared and the Council adopted a Resolution giving one week from the date of the hearing to pay ½ the back taxes, ½ the weed mowing assessments, and to clean the premises. Provided the above was completed, Mr. Wiggins was to be granted an additional two weeks to pay the remaining taxes and weed mowing assessments, and a total of 30 days from the July 10th hearing date to complete exterior repairs. If any of these requirements were not met, Mr. Wiggins was given 10 days to start and 10 days to complete demolition before the City ordered its contractor to demolish the property.

On July 17, 19, and 24th, 2001, staff checked the taxes and special assessments and none had been paid. Staff checked the property and the premises were not cleaned. Mr. Wiggins was notified that the City would proceed with demolition. An asbestos survey has been completed and asbestos removed at a total cost of \$2,650.50.

On September 5, 2001, this property changed ownership, and the new owners contacted Council Member Brewer to request a re-hearing of the condemnation case against the property.

On September 18, 2001, staff inspected the property. The premises had been mowed, but there was brush and bulky waste on the premises and the structure was open. The taxes are now current, but the weed mowing pending assessment of \$121.27 is still shown as unpaid.

Staff has recommended that this request be denied because this property owner, up to now, had indicated a lack of willingness to fix up the property in accordance with minimum codes. He has owned the property for many years and did not attend the Board of Code Standards when the hearing was held on this property. The premises contained tall grass/weeds and other debris even at the time of the last Council meeting. When this individual appeared at the meeting to seek an extension of time to address the problems, he had no strategy or plan to correct the deficiencies. The Council gave him one week to clean the premises and pay ½ of the taxes owed. He did not meet these conditions as set forth by the City Council. Thereafter, the Staff initiated required asbestos surveys and is proceeding with the

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demolition of this property. The County currently has action against this property owner relative to violations of the County Zoning requirements pertaining to junk car storage.

Pursuant to State Statute, required resolutions for the June 10, 2001, hearing were published twice, on May 23rd, and on May 30, 2001.

The City Manager explained that the new buyer no longer desires the property. Staff recommends the City Council confirm its previous action, deny the request, and proceed with demolition.

Mayor Knight

Mayor Knight inquired if anyone wished to be heard and no one appeared.

Motion --
-- carried

Brewer moved that previous City Council action be affirmed; the request be denied and to proceed with demolition. Motion carried 7 to 0.

APPOINTMENTS

BOARD APPOINTMENTS:

Motion --
- carried

Fearey appointed Carol Schlicher to the Sedgwick County Solid Waste Advisory Committee and moved that the appointments be approved. Motion carried 7 to 0.

CONSENT AGENDA

Motion -- carried

Knight moved that the Consent Agenda be approved as consent Items. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED OCTOBER 1, 2001.

Bids were opened September 28, 2001, pursuant to advertisements published on:

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

Lincoln Bridge at Fabrique - Lincoln between Oliver and Woodlawn. (87 N-0141-01/472-83044/448-89348/468-83079/715685/636077/620280/241099/779157 /660405) Traffic to be maintained during construction using flagpersons and barricades. (District II & III)

Wildcat Construction - \$139,736.00

Asphalt parking lot improvements at Evergreen and Atwater - north of Maple, east of Amidon. (472-83434/132225) Traffic to be maintained during construction using flagpersons and barricades. (District I & VI)

Kansas Paving Company** - \$110,000.00

**Award contract for this amount

Knight moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

POLICE DEPARTMENT/FIELD SERVICES DIVISION: Protective Equipment. (602116)

Law Enforcement Equipment - \$3,236.00 (Group 1/total net bid)

Baysinger Police Supply - \$20,520.00 (Group 2/total net bid)

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WATER & SEWER DEPARTMENT/WATER DISTRIBUTION DIVISION: Air Compressor, Trailer Mounted. (183301)

Concrete Accessories - \$10,989.00 (Item 1/total net base bid)
\$ 279.00 (Option 1/total lump sum/add)
\$ 235.00 (Option 2/total lump sum/add)

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: FIMS Atomic Absorption Spectrophotometer. (185583)

Perkin Elmer - \$24,759.75 (Total net bid)

PUBLIC WORKS DEPARTMENT/FLEET & BUILDINGS DIVISION: Barricades. (130849)

GT Midwest - \$32.10 (Item 1/per each)
\$61.65 (Item 2/per each)
\$10.95 (Item 3/per each)

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

CMB

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2001</u>	<u>(Consumption on Premises)</u>
Dennis H. Grady	Wichita Canteen Company, Inc.*	1845 Fairmount
<u>New Operator</u>	<u>2001</u>	<u>(Consumption off Premises)</u>
Bao Tran	B & H Fast-Trips Co.	2796 South Seneca

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

Motion -- carried Knight moved that the licenses be approved subject to Staff approval. Motion carried 7 to 0.

PLANS AND SPECS. SUBDIVISION PLANS AND SPECIFICATIONS.

There were no Subdivision Plans and Specifications submitted.

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) Lavon Area Sanitary Sewer Improvements, Phase 1 - east of Hillside, north and south of 13th Street North. (468-83307/624071/651524) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$374,000.00
- b) Edgemoor Drive, from the south line of Lot 97, Block 2 to the southeast line of Lot 84, Block 2; and Pembroke Circle, from the east line of Edgemoor Drive, to the northwest line of Lot 85, Block 2, including the turn-around to serve The Courts II - north of 21st Street North, west of Woodlawn. (472-83382/765695/490806) Does not affect existing traffic. (District I) - \$189,000.00
- c) Garnett from the south line of Central Avenue, south to a point 485 feet south of the south line of Central Avenue to serve 127th Retail Addition - south of Central, west of 127th Street East. (472-83194 /765697 /490808) Does not affect existing traffic. (District II) - \$88,000.00

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

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DEEDS/EASEMENTS: DEEDS AND EASEMENTS:

- a) Utility Easement dated August 22, 2001 from Sprint Communications Company, L.P., for a tract of land in Lot 1, Higgins Turnpike Addition, Sedgwick County, Kansas (Private Project, OCA # 607861). No cost to City.
- b) Utility Easement dated August 24, 2001 from Mel Hambelton Real Estate, L.L.C., a Kansas Limited Liability Company, for tracts of land in Lots 1, 2, 3, 4 and 5, Block A, Mel Hambelton Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA # 607861). No cost to City.
- c) Utility Easement dated July 18, 2001 from Riverside Health System, Inc., a Kansas Corporation, for a tract of land in Lot 1, Block 1, Riverside Health System 3rd Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA # 607861). No cost to City.
- d) Utility Easement dated February 15, 2001 from Willard J. Kiser Properties, L.L.C. and Kiser Gateway, L.L.C., for a tract of land in the Northwest Quarter of Section 15, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas (Private Project, OCA # 607861). No cost to City.
- e) Utility Easement dated September 24, 2001 from the Unified School District No. 259, Sedgwick County, Kansas, for a tract of land in the Southwest Quarter of the Northeast Quarter of Section 35, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (OCA # 150003). No cost to City.
- f) Public Utility Easement Dedication dated September 12, 2001, from William Nath, Robert Smith, and Peter Ochs, for a tract of land in the NE ¼ of Section 10, TWP27S, R2E.

Motion --
-- carried

Knight moved that the documents be received and filed; and the necessary signatures be authorized
Motion carried 7 to 0.

CHERRY HILLS ADD. PETITION FOR SANITARY SEWER TO SERVE PART OF CHERRY HILLS ADDITION – SOUTH OF HARRY, WEST OF CLIFTON. (District III)

Agenda Report No. 01-1107.

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

This project will extend sanitary sewer service to a commercial development on the south side of Harry, west of Clifton.

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

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

Motion -- carried

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

RESOLUTION NO. 01-418

Resolution of findings of advisability and Resolution authorizing construction of Lateral 20, Main W, Sanitary Sewer Number 12, (south of Harry, west of Clifton) 468-83322, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

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KESSLER-KOCH

PETITION FOR SANITARY SEWER TO SERVE PART OF KESSLER-KOCH ADDITION – NORTH OF 30TH STREET SOUTH, EAST OF WEST STREET. (District IV)

Agenda Report No. 01-1108.

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

The project will extend sanitary sewer service within an industrial area.

The Petition totals \$20,000. The funding source is special assessments.

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

Motion -- carried

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

RESOLUTION NO. 01-419

Resolution of findings of advisability and Resolution authorizing improving of Lateral 477, Southwest Interceptor Sewer (north of 30th Street South, east of West Street) 468-83335, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

OAK CLIFF ESTATES STORM WATER SEWER TO SERVE PART OF OAK CLIFF ESTATES – NORTH OF MAPLE, WEST OF MAIZE ROAD. (District V)

Agenda Report No. 01-1109.

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

This project will serve a new commercial development located on the north side of Maple, west of Maize Road.

The Petition totals \$65,000. The funding source is special assessments.

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

Motion -- carried

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

RESOLUTION NO. 01-420

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Sewer 557, (north of Maple, west of Maize Road) 468-83323, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

STREET CLOSURES CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 01-1110.

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

The following street closure requests have been submitted.

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1. Woofstock 2001
Saturday, October 6, 2001;
West River Blvd from Nims to Murdock Bridge (8:00 a.m. to 12:30 p.m.)
West River Blvd. from East of Wiley to Murdock Bridge (12:30 p.m. to 2:00 p.m.)
Murdock from Waco to Nims (8:00 a.m. to 2:00 p.m.)
Stackman Drive from Nims to Murdock (8:00 a.m. to 2:00 p.m.)
Nims from Stackman Drive to Murdock (8:00 a.m. to 12:30 p.m.)
Franklin from Wiley to Nims (8:00 a.m. to 12:30 p.m.)
Angled Street by Minute Man Memorial (8:00 a.m. to 12:30 p.m.)

2. Old Town Fall Family Festival
Saturday, October 13, 2001; 7:00 a.m. to 7:00 p.m.
Mosley from First to alley north of Larkspur Restaurant
Rock Island from First to alley south of Torre's Pizzeria

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

Motion --

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

-- carried

WEAPONS

WEAPONS DESTRUCTION:

Agenda Report No. 01-1111.

The Police Department has requested authorization to destroy several weapons which have been confiscated in criminal activity but are no longer needed as evidence.

City Code provides that weapons seized in connection with criminal activity shall be destroyed or forfeited to the Wichita Police Department. All transactions involving weapon disposal must have prior approval of the City Manager. A list of weapons being destroyed has been provided. The destruction of the weapons will be witnessed and monitored by Staff.

There are no financial considerations.

Upon review by the City Council, the necessary court documents will be prepared to proceed with destruction of the listed weapons.

Motion -- carried

Knight moved that the report be received and filed.

LEGAL SERVICES

AMENDMENT TO AGREEMENT – GRACE, UNRUH, AND PRATT, L.C. FOR LEGAL SERVICES.

Agenda Report No. 01-1112.

The City has retained Grace, Unruh & Pratt, L.C. to provide legal services in connection with pending employment litigation.

The original contract was approved in June 2000, and later amended in September 2000. It has become necessary to spend additional sums to continue the representation of the City and its employees in this matter. This will be the second amendment to the original contract.

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The additional sum covered by the Amendment is \$35,000.00 as necessary to continue to represent the City and its employees in the pending litigation. The charges are reasonable in amount for the legal services involved. Payment will be from the Tort Liability Fund.

The appropriate means to approve the additional payment is an Amendment to the original contract and raising the expenditure limit.

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

LIENS RELEASE RELEASE OF HARDSHIP DEFERRAL LIENS.

Agenda Report No. 01-1113.

During the past year, various property owners applied for Special Assessment Hardship Deferrals to defer payments of special assessments. Each property owner signed a Lien Agreement with the City of Wichita that was filed with Sedgwick County Register of Deeds.

Hardship Deferral Program guidelines state that if property ownership changes, the assessment will be paid or put back on the tax roll.

Three (3) properties have had a change in ownership and the assessments have been put on the tax roll for 15 years beginning 2001.

There is no cost to the City of Wichita.

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

RURAL WATER AMENDMENT – BENEFIT UNITS FROM RURAL WATER DISTRICT NO. 1.

Agenda Report No. 01-1114.

The City currently provides water service on a wholesale basis to Rural Water District #1. Under terms of their Contract, the number of benefit units allowed is 430. A request has been received from the District for an increase in the number of benefit units (which may be defined as water connections or customers) from 430 to 460.

RWD #1 has received a request from a prospective customer for seven (7) additional benefit units, which would exceed the allowable number since 426 of the units are currently filled. In addition, the District believes that there are several potential applications that will soon be made for water service.

The policy orientation of the City regarding service to Rural Water Districts is to limit the number of service connections contractually, and determine that the nature of the property being served is essentially agricultural. The latter condition is achieved through a standard contract provision requiring a minimum lot size of ten (10) acres for each benefit unit. The proposed Amendment would provide only for an increase in the number of benefit units with the acreage requirements remaining the same.

The Development Coordinating Committee (DCC) reviewed the application on August 16, 2001, and recommended approval.

There would be a moderate increase in water revenues to the Water Utility by approving the request for additional benefit units.

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

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DEFERRED COMP. CONTRACT FOR DEFERRED COMPENSATION PLAN ADMINISTRATION.

Agenda Report No. 01-1115.

In 1991, the City Council approved Great West as the administrator of the deferred compensation plan. Following a Request for Proposal process in 1996, Great West was retained for an additional five-year period.

A Request for Proposal was issued on March 22, 2001, to thirty-four vendors with a due date of April 20, 2001. Fifteen proposals were received. On June 19, 2001, the City Council authorized a contract extension through September 30, 2001, for review of the proposals.

The Deferred Compensation Board interviewed four firms and Great West was again selected.

Costs associated with administration of the program are borne by the participants. The City pays all costs associated with payroll deduction and funds transfer.

Motion --
-- carried

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

LEGAL SERVICES SUPPLEMENTAL CONTRACT – FOULSTON & SIEFKIN.

Agenda Report No. 01-1116.

The City has retained the law firm of Foulston & Siefkin to provide legal services in connection with the class action litigation filed in Reinschmidt v. City of Wichita. This case challenges the constitutionality of certain practices used by the municipal court judges to collect unpaid fines and court costs.

The original contract was approved on February 1, 2000. It has become necessary to spend additional sums to continue the representation of the City in this matter. This will be the fourth amendment to the original contract.

The additional sum covered by this Amendment provides for an amount not to exceed fifty thousand dollars as necessary to continue the legal representation. The charges are reasonable in amount for the legal services involved. The legal services are funded from the General Liability-Tort Management Fund.

Motion --
-- carried

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

PROPERTY ACQ. ACQUISITION OF EASTBOROUGH SANITARY SEWER SYSTEM.

Agenda Report No. 01-1117.

The City of Wichita provides sanitary sewage treatment services to the City of Eastborough. Eastborough residents pay standard outside-City retail rates. The rates contain a cost component that is related to the maintenance of the collection system.

The City of Eastborough has owned and maintained the collection system for their sanitary sewer. Wichita, for many years, has offered maintenance services to Eastborough on their collection system. Until recently, however, Eastborough has not shown any interest in the offer. No formal contract for the provision of sanitary sewer service exists, or has ever existed, between Wichita and Eastborough.

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A Purchase Agreement and Bill of Sale have been received from the City of Eastborough which would result in the transfer of ownership of the Eastborough sanitary sewer system to Wichita for a purchase price of one dollar (\$1.00). In return, Wichita would agree to maintain the collection system and to pay for replacement and rehabilitation of the system on an as needed basis, through charges to Wichita's overall customer base. Eastborough agrees to abide by all provisions of the City of Wichita's sewer use ordinances.

Financial impacts of the transfer will be minimal and will be associated with normal maintenance activities and with the need for any future replacement or rehabilitation. Since the rates charged to Eastborough residents contain a cost component relative to expenses associated with the sanitary sewer collection system, revenues will be generated from monthly billings to pay for maintenance activities.

Motion --
-- carried

Knight moved that the budget and the Contract be approved; and the necessary signatures be authorized. Motion carried 7 to 0.

PUMP STATION

COWSKIN CREEK PUMP STATION REHABILITATION. (District V)

Agenda Report No. 01-1118.

On February 12, 2001, Professional Engineering Consultants, P.A. (PEC) was retained to the rehabilitation of Cowskin Creek Pump Station, located on Tyler Road, south of Pawnee. Equipment problems were noted, and the consultant was requested to evaluate the facility and provide recommendations. The lift station pumps sewage to Sewage Treatment Plant 2 through a force main from the western portion of the City's system and is critical to providing service to this part of the City.

PEC completed the evaluation and noted equipment deficiencies and system failures. The equipment has reached the end of its useful service life and is of questionable reliability. The lift station is presently operating at, or near, capacity and must be upgraded to meet future demands; however, replacement parts for existing equipment are no longer being manufactured.

The Sanitary Sewer Master Plan Update anticipated removal of the pump station from service and construction of a sewage treatment facility for the area. Based on the evaluation, the equipment may not last long enough to allow the required time necessary for construction of a facility. It is recommended that the lift station be rehabilitated for continued use. The proposed upgrades could extend service life by approximately 30 years and allow for downsizing of the proposed future treatment facility.

This project currently is not in the Capital Improvement Program. Modification to the CIP will make funding available of 1.3 Million for S-540, Cowskin Creek Pump Station Rehabilitation. The Agreement is for \$94,502. The project will be funded by revenues and/or a future bond issue.

Motion --
-- carried

Knight moved that the modification to the Capital Improvement Program and the Agreement be approved; the Resolution be adopted; and the necessary signatures be authorized. Motion carried 7 to 0.

RESOLUTION NO. 01-421

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 total principal amount which shall not exceed \$1.3 Million, exclusive of financing costs, 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. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

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BUDGET

REFLECTORIZED SCHOOL CROSSWALK SIGN FACES.

Agenda Report No. 01-1119

The City of Wichita currently has 1240 school warning signs. The Manual of Uniform Traffic Control Devices (MUTCD) requires using reflectORIZED sign faces for school advance warning and crosswalk signs. New MUTCD revisions require the replacement of current school crosswalk signs, and the addition of "AHEAD" and arrow placards.

The estimated cost to replace the current sign faces and add "AHEAD" and arrow placards using fluorescent yellow-green colored micro prismatic sheeting is \$38,430. The project budget allows for a minimal maintenance inventory in case of theft, vandalism, or damage.

Existing school crosswalk signs must be replaced to meet MUTCD revisions. The fluorescent yellow-green sheeting will greatly improve school crosswalk visibility and awareness by motorists entering school zones, and give additional protection to school children. Bids will be solicited for the fluorescent sheeting. In-house labor will be used to install the improved signs.

Funds are available in the 2001 Contract Maintenance program to pay for the signage upgrades. However, monies will need to be transferred from the contractuals to the commodities budget to purchase the sheeting materials.

Budget transfers over \$10,000 must be approved by the City Council.

Motion -- carried

Knight moved that the budget be approved. Motion carried 7 to 0.

BUDGET

PAVEMENT CUT REPAIR PROGRAM FUNDING.

Agenda Report No. 01-1120.

Utility companies and others are issued permits to cut streets to repair their underground lines. Utility companies make temporary patches and release the permit to the City. Permanent pavement repairs are done by the City's contractor with the costs reimbursed to the City by the utility company.

Specifications require that pavement cuts be repaired in 15 - 20 days after release of the permit to the City. Inadequate or untimely repair of street cuts hasten deterioration of the street surface and subject traffic to uneven surface conditions caused by settling of the temporary patches.

The approved 2001 pavement cut appropriation is \$1,199,700. Increased repairs, due to the effect of the summer heat on the City's water mains, building the groundwater remediation system, and maintenance of utility companies patches for the duration of City projects have nearly fully expended the pavement cut budget. A budget transfer of \$600,000 from various Public Works accounts is requested at this time to carry the program through 2001. The number and size of pavement cuts is dependent on many factors, such as utility line leaks, new service connections, depth of lines, and subsurface conditions. Annual expenditures are totally dependent on utility workloads and are difficult to predict.

A budget transfer of \$600,000 for the Pavement Cut Program is recommended. Expenditures are completely offset by revenues from billings to utility companies making cuts in the streets. The funds are available due to under-expenditures in other accounts elsewhere in the Public Works General Fund budget.

All budget adjustments over \$10,000 require Council approval.

Motion -- carried

Knight moved that the budget be approved. Motion carried 7 to 0.

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BUDGET

2000/2001 ARTERIAL SIDEWALK AND WHEELCHAIR RAMP PROGRAM.

(Districts I, III, and V)

Agenda Report No. 01-1122.

On September 26, 2000, the City Council approved the 2000/2001 Arterial Sidewalk and Wheelchair Ramp Program in the amount of \$680,000.

Additional costs to provide the sidewalk and wheelchair ramp improvements along arterial streets are expected to exceed current funding for the project by \$35,000.

Funds for the additional costs are available from savings in other projects. The funding source is General Obligation Bonds.

Motion --
-- carried

Knight moved that budget be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Ordinance No. 45-001 of the City of Wichita, Kansas declaring Rock Road from 13th Street North to Polo; Oliver, from Morris to Gilbert; Lincoln, from Bluffview to Oliver; 25th Street North, from Amidon to Garland; Harry, from Hydraulic to 265 feet east of Hydraulic; Mount Vernon, from Lexington to Woodlawn; Webb, from 828 feet south of Kellogg to Kellogg; and wheelchair ramps at various locations (2000/2001 Arterial Sidewalk and Wheelchair Ramp Program), 472-83270, to be main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

SETTLEMENT

SETTLEMENT OF LITIGATION.

Agenda Report No. 01-1123.

In late 1995, the plaintiff entered into a contract with the City to jointly operate a "Holiday of Lights" show in Watson Park.. Plaintiff alleges that the City breached agreements for him to participate in subsequent light shows. Potential damages include loss of profits, expenses and compensation for lights, and displays owned by plaintiff which were used by the City in Christmas light shows operated with a third party from 1998-2000.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that resolution of this matter was appropriate. The City has been offered an opportunity to resolve the litigation with a lump sum payment of \$18,500 as full settlement of all claims arising out of these transactions. Settlement would include a full release of the City and an agreement that the City would retain ownership of lights and displays which plaintiff claims an ownership interest. The Law Department recommends acceptance of the offer.

Funding for this settlement payment is from the Tort Claims Fund.

The Law Department recommends acceptance of the offer of settlement.

Motion -- carried

Knight moved that the payment of \$18,5000 as full settlement be approved. Motion carried 7 to 0.

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PROPERTY ACQ. ACQUISITION OF PORTION OF 8027 WEST KELLOGG. (District V)

Agenda Report No. 01-1124.

In November 1999, the City Council approved Ordinance 44-429 authorizing funding for the Kellogg/Tyler & Maize Highway project. This approval authorized staff to initiate acquisition of needed parcels. One acquisition is a portion of the property located at the 8027 West Kellogg which is owned by Dale Zogleman. The total ownership contains 85,000 square feet, is zoned Limited Industrial and is improved with a 4,368 square foot automobile sales and service facility. The site is contoured and configured for automobile display. The acquisition will encompass the north 10 feet of the tract and contains 3,050 square feet.

The appraiser estimated the value of the acquisition at \$55,000. The land was valued at \$15,250 (\$5.00 per square foot), with the remaining costs being cost to cure and damages to the remainder. The acquisition will make eliminate the vehicle display area in front of the building and adversely impact traffic flow within the site. The owner originally calculated the cost to remediate the site at \$110,000. After reviewing costs and options, a settlement amount of \$80,000 has been agreed to. Eminent domain has been initiated on the tract and will be halted with the settlement.

Funds for land acquisitions have been budgeted in the 2000 Capital Improvement Program. The funding source will be Local Sales Tax revenues. A budget of \$83,000 is requested. This includes \$80,000 for the acquisition and \$3,000 for closing costs.

Motion --
-- carried

Knight moved that the budget and the Contract be approved; and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCES SECOND READING ORDINANCES: (FIRST READ SEPTEMBER 25, 2001)

a) Tax Increment Financing Redevelopment District, Central and Hillside area.
(Districts I and II)

ORDINANCE NO. 45-059

An Ordinance of the City of Wichita establishing the Central and Hillside Redevelopment District, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight..

b) Acquisition of Hyatt Regency Leasehold.

ORDINANCE NO. 45-060

An Ordinance determining the necessity for acquiring certain interests in real property and providing that the cost of said acquisition shall be paid by the City of Wichita, Kansas, at large, through the issuance of general obligation bonds of the City of Wichita, Kansas, under the authority vested in the City under Article 12, Section 5 of the Constitution of the State of Kansas, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

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- c) Hoover improvement – from South of 31st Street South to Harry. (District V)

ORDINANCE NO. 45-061

An Ordinance declaring Hoover, from 1/4 mile south of 31st Street South to Harry 472-83176, to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

- d) A00-22 – Southwest corner of Greenwich and 13th Streets North.

ORDINANCE NO. 45-062

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight. A00-22

PLANNING AGENDA

Marvin Krout Director of Planning said all Items except 20 and 23 could be taken as consent Items.

Motion -- carried Knight moved that all Items except 20 and 23 be approved as consent Items. Motion carried 7 to 0.

SUB2001-00051 SUB2001-00051 – PLAT OF OVERVIEW HILLS ADDITION – SOUTHEAST CORNER OF 31ST STREET SOUTH AND 135TH STREET WEST.

Agenda Report No. 01-1125.

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

This plat is zoned SF-20, Single-Family Residential and is located in the County within three miles of Wichita's City limits. The site has been approved by the County Health Department for the use of on-site sanitary sewer and water facilities.

Petitions, all 100%, have been submitted for future sanitary sewer and City water improvements. A Certificate of Petitions has also been submitted. A joint access easement has been submitted to provide shared access between Lots 2 and 3.

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

The Certificate of Petitions and joint access easement will be recorded with the Register of Deeds.

Motion -- Knight moved that the documents and Plat be approved; the Resolutions be adopted; and the necessary signatures be authorized. Motion carried 7 to 0.
-- carried

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RESOLUTION NO. 01-422

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89621, (south of 31st Street South, east of 135th 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. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

RESOLUTION NO. 01-423

Resolution of findings of advisability and Resolution authorizing construction of Lateral 475, (south of 31st Street South, east of 135th Street West) 468-83327, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

(Item No. 20)

CON2001-00041

CON2001-00041 – CONDITIONAL USE FOR 130-FOOT HIGH MONOPOLE TOWER ON PROPERTY ZONED TWO-FAMILY RESIDENTIAL – SOUTH OF PAWNEE, WEST OF BROADWAY. (District III)

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 01-1126.

MAPC Recommendation: Approve, subject to conditions (9-3)

DAB Recommendation: Deny (5-3)

Staff Recommendation: Deny

The owner is seeking a Conditional Use to permit the construction of a 130-foot high monopole tower by Nordyke Ventures, LLC for use by Cricket Communications, Inc. The applicant has provided a list of reasons why they feel their request conforms to the review criteria for a Conditional Use. The proposed site is zoned “TF-3” Two-Family Residential. Wireless Communication Facilities over 65 feet in height in the “TF-3” Two-Family Residential zoning district may be permitted with a Conditional Use.

The proposed monopole tower would be sited on an approximately 3,600 square foot area located south of Pawnee and west of Broadway in Herman Hill Park, south of the police substation. The site plan shows a compound enclosed with an eight-foot high wood fence with the tower located in the center of the compound and the ground-level communication equipment located in the eastern portion of the compound. The site plan shows that access would be provided to the site through a 20-foot drive to a paved street in Herman Hill Park. Existing trees within the compound are proposed to be removed, and the site plan shows four six-to eight-foot scotch pines to be planted on the west side of the compound.

The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned “GC” General Commercial. The properties to the west, northwest, and northeast are zoned “TF-3” Two-Family Residential.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. The justification for the request indicates that an existing monopole tower located approximately 1/3 mile to the southeast does not provide sufficient height. The justification also indicates that reconstructing the existing monopole would cost more than constructing a new tower.

Another applicant submitted a Conditional Use request (CON2001-00039) for a 150-foot high monopole tower to be located approximately 1/3 mile to the southeast along St. Francis for the purpose of supporting a planned initial build-out of a wireless phone system by Cricket Communications, Inc.;

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therefore, planning staff contacted both applicants and requested documentation from Cricket that they would be locating on the respective towers. The applicant in this case provided an e-mail from the Site Acquisition Development Manager for Cricket indicating that Cricket would be locating on the tower if it is approved. Planning staff contacted Cricket to confirm this, and Cricket indicated that they intend to locate on the tower near Pawnee and Broadway rather than the St. Francis site and would attend the public hearings to state their position on this issue. A representative from Cricket attended the public hearings but did not state their position on this issue.

At the MAPC hearing on August 9, 2001, no one spoke, other than the applicant, in favor of or in opposition to the request. The MAPC voted (9-3) to approve the request subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

Two protest petitions (one within 200 feet of the site) were filed within the 14-day timeframe established by the zoning code to recognize appeals of MAPC decisions on Conditional Uses. Planning staff determined that one of these two protest petitions is valid. Therefore, the action of the MAPC is appealed to the City Council for final action. The protest petitions represent 1.06% of the land within a 200 foot radius of the site, which is insufficient to trigger the $\frac{3}{4}$ majority requirement for approval.

Motion --

Lambke moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC to permit a wireless community facility, subject to the recommended conditions, be approved and the Resolution be adopted. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 01-424

A Resolution authorizing a conditional use to permit a wireless communication facility on property zoned "TF-3" two-family residential, located south of a Pawnee and west of Broadway in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gale, Lambke, Martz, Pisciotte, Knight.

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ZON2001-00043

ZON2001-00043 – ZONE CHANGE FROM LIMITED INDUSTRIAL TO EXTEND THE OLD TOWN PROTECTIVE OVERLAY DISTRICT. (District VI)

Agenda Report No. 01-1127.

MAPC Recommendation: (Approve 7-0).

Staff Recommendation: Approve

DAB Recommendation: Approve (8-0).

The applicant is seeking inclusion of his property in the “OT-O” Old Town Overlay District. The property is located ¼ block north of Second Street, east of Mosley. There is not a particular use(r) committed to the property at this time. The site is developed with a single story commercial building that, under its current configuration, is divided into three identifiable spaces containing approximately 24,920 square feet. The buildings are currently being remodeled.

As depicted on the site plan, the applicant’s property is virtually developed property line to property line, so there is not any room for on-site parking, except within the buildings. It appears there might be excess right-of-way located along Mosley that, with a “minor street permit,” could be used for parking. There is a parking lot located immediately south of the application area, but the lot is not under the applicant’s control. The same is true with an unpaved tract of land located west of the application area that is used for loading during daytime hours. The lack of parking is the primary reason for the request for “OT-O” zoning. The Old Town Overlay District has reduced parking requirements when compared to most other zoning districts, and has provisions which allow for the use of off-site shared public parking spaces by property owners in the Old Town Parking District by paying a monthly fee, in lieu of providing the parking directly. However, inclusion within the “OT-O” zoning district does not automatically include the property within the Old Town Parking District. A separate ordinance will have to be prepared and approved to include the site in the Old Town Parking District. Until the property is included in the parking district, the applicant will need to provide parking as required by the appropriate sections of the code. Because of the limited availability of nearby land for parking, the applicant is asking that the Overlay District for this addition include a special provision that would allow short term leases for parking to be counted towards meeting his parking requirements.

If this request is approved, the underlying zoning on the property would remain “LI” Limited Industrial, but the property would become subject to the design, signage and parking requirements of the “OT-O” district. The “OT-O” district also permits a wider range of uses, such as residential, that are not permitted by the existing “LI” zoning.

Surrounding properties are zoned “LI” and are predominantly developed with commercial, industrial and warehouse uses. The property immediately south of the application area is developed with surface parking. A vacant lot exists west of the applicant’s property. The land located to the north and east is developed. The closest “OT-O” zoning is located a ¼ block south, just across Second Street. Another request for “OT-O” has been submitted at Third and Mead and was approved by MAPC (8-9-01) and City Council has approved a plan for redevelopment of the area to the west for a theatre / retail restaurant complex.

The MAPC heard this case on September 6, 2001, and recommended approval (7-0). The Commission also recommended special conditions that would apply only to this property –a) leased spaces that are not accompanied by a recorded agreement shall count towards meeting off-street parking requirements and b) off-site spaces may be located east of Washington Street. One person spoke in opposition. He indicated that he was not opposed to the request for “OT-O” zoning, but he felt the request should be deferred until the entire south of 3rd Street between the railroad tracks and Washington could be zoned “OT-O” and plan developed to address street improvements and parking needs.

District Advisory Board VI heard the request and recommended approval (8-0).

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Motion --

Knight moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, as amended, introduced and under the rules laid over. ZON2001-00043

ZON2001-00050

ZON2001-00050 – ZONE CHANGE FROM MULTI-FAMILY RESIDENTIAL TO NEIGHBORHOOD OFFICE – BETWEEN TERRACE AND PERSHING, NORTH OF CENTRAL. (District II)

Agenda Report No. 01-1128.

Staff Recommendation: Approve

The applicant requests a zone change from “B” Multi-Family to “NO” Neighborhood Office on a 0.17 acre platted tract located north of Central, between Terrace and Pershing. The site is currently developed with a vacant office building that formerly housed a dental practice. The site’s current “B” Multi-Family zoning permits offices for medical services but does not permit offices for other professions. The applicant has requested to rezone the property to “NO” Neighborhood Office to permit offices for other professionals such as accountants, architects, attorneys, etc. in addition to the currently permitted medical offices.

The surrounding area is characterized by a mixture of uses with commercial uses to the south and east and residential uses to the north and west. The properties north of the site are zoned “TF-3” Two-Family Residential and are developed with single-family residences. The property west of the site is zoned “TF-3” Two-Family Residential and is developed with duplexes. The property east of the site is zoned “B” Multi-Family is and developed with a medical office. The property south of the site across Central is zoned “LC” Limited Commercial and is developed with a service station.

Planning staff recommended that the request be approved subject to the dedication of access control along Central except for the east 15 feet the property and the dedication of cross-lot access to abutting properties to the east and west. At the MAPC hearing on September 6, 2001, there were no speakers in favor of or in opposition to the request. The MAPC voted (9-0) to approve the request subject to the recommended conditions of planning staff.

Motion --

Knight moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the condition of dedicating access control and cross-lot access; and the Ordinance be placed on first reading with publication being withheld until the dedications are recorded with the Register of Deeds. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, as amended, introduced and under the rules laid over. ZON2001-00050

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(Item No. 23)
ZON2001-00053

ZON2001-00053 – ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED INDUSTRIAL WITH A PROTECTIVE OVERLAY TO LIMIT USES. (District II)

Marvin Krout

Director of Planning reviewed the Item.

Agenda Report No. 01-1129.

MAPC Recommendation: Approve (8-0)

Staff Recommendation: Approve

DAB Recommendation: Approve, subject to staff comments and the inclusion of a condition limiting building height to 30 feet on the north 5 acres and the codified agreement to remove the concrete/asphalt plant within one year (7-1)

The applicant requests a zone change from “SF-5” Single Family Residential to “LI” Limited Industrial on a 5 acre unplatted tract located south of 45th Street North and west of Webb Road. The applicant also proposes a Protective Overlay that would limit the industrial uses permitted on the property, provide greater building setbacks, increase landscaping requirements, and restrict signage.

The applicant owns the 20 acre tract immediately south of the subject property that is zoned “LI” Limited Industrial and is developed with an asphalt and concrete plant. The applicant proposes to combine the 20 acre tract to the south with the 5 acre subject property to create a 25 acre industrial redevelopment project similar to the industrial developments to the south and west. The applicant proposes that the Protective Overlay will apply to both the 5 acre property requested for rezoning as well as the existing 20 acre industrial property; however, since the applicant provided an ownership list for notification around the 5 acre tract only, the restrictions on the 20 acre tract will need to be in the form of a voluntarily-offered restrictive covenant.

The surrounding area is characterized by mixture of uses with suburban residential uses to the north, industrial uses to the south and west, an airport to the east, and urban-residential uses further to the west in the Willowbend development. Properties to the north are zoned “SF-5” Single Family Residential and are primarily developed with single family residences on large lots. The property to the south is owned by the applicant, is zoned “LI” Limited Industrial, and is developed with a concrete and asphalt plant. Further to the south and to the west of the site are properties zoned “LI” Limited Industrial that are currently developing with industrial uses. East of the site is Jabara Airport on property zoned “LI” Limited Industrial.

Planning staff recommended that the request be approved subject to the condition of platting the property within one year and the following provisions of a voluntarily-offered restrictive covenant on the entire 25 acre site:

1. The property shall be limited to all uses of the “IP” Industrial Park district in addition to the following uses permitted in the “LI” Limited Industrial district: Church or Place of Worship, Convalescence Care Facility (Limited and General), Hospital, Funeral Home, Hotel or Motel, Medical Service, Recreation and Entertainment (Indoor and Outdoor), Retail (General), Vehicle Repair (Limited and General), Agriculture Research and Agriculture Sales and Service (limited to greenhouses as defined by the Unified Zoning Code).
2. The property shall be restricted to the property development standards of the “IP” Industrial Park district with the exception that front and street side building setbacks shall be 35 feet. The property shall also provide a 25-foot building setback along the north property line where adjacent to residential zoning.
3. The property shall provide a screening fence and landscape buffer planted at 1.5 times code requirements along the north property line. Existing vegetation may be included in the fulfillment of this requirement. The property shall provide a 20-foot landscape buffer along the Webb Road frontage.

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4. All off-site signs are prohibited.

At the MAPC hearing on September 6, 2001, one neighboring property owner spoke in favor of the request and asked questions regarding how the recent annexation of his property would impact the use of his property for barn-yard animals. The MAPC voted (9-0) to approve the request subject to conditions recommended by planning staff.

At the DAB II hearing on September 10, 2001, several residents north of the site spoke against the request. The DAB voted (7-1) to approve the request subject to staff comments and the inclusion of a condition limiting building height to 30 feet on the north 5 acres and the codified agreement to remove the concrete/asphalt plant within one year. The applicant was not asked to comment on the additional conditions recommended by the DAB and had not indicated their position on the additional conditions at the time this report was prepared.

Motion --

Pisciotte moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the condition of platting and the condition of recording the voluntary restrictive covenant; and the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council. Motion carried 7 to 0.

-- carried

**ZON2001-00052
CUP2001-33
DP 37 AMEND #4**

ZON2001-52 (ASSOCIATED WITH CUP2001-33 DP-37 AMENDMENT #4) – ZONE CHANGE TO “GC” GENERAL COMMERCIAL AND AMENDMENT TO DP-37 RIDGE PLAZA COMMUNITY UNIT PLAN TO ALLOW MORE INTENSIVE USES ON PARCELS 11-13 AND 18-20. GENERALLY LOCATED AT TAFT AND EMERSON, JUST EAST OF HOLLAND LANE (District V)

Agenda Report No. 01-1130.

MAPC Recommendation: Approve (8-0).

Staff Recommendation: Approve.

DAB Recommendation: Approved (4-0).

The applicant is proposing to amend DP-37 Ridge Plaza Community Unit Plan and rezone Parcel 11, 12, 13, 18, 19 and 20 from “LC” Limited Commercial to “GC” General Commercial. The amendment would permit a wider range of commercial and warehouse type of uses.

Permitted uses would be: animal care, general; construction sales and service; convenience store; financial institution; hotel and motel; manufacturing, limited; medical service; tavern and drinking establishment; office, general; personal care service; personal improvement service; recreation and entertainment, indoor; restaurant; retail, general; tavern and drinking establishment; vehicle repair, general; vocational school; warehouse, self-service storage; warehousing; and wholesale or business service.

The only use removed is private clubs, but tavern and drinking establishments are added in its place. Indoor recreation and entertainment uses are modified to permit all activities within these categories, including bowling alleys, bingo parlors, video game arcades, and indoor amusement rides. Currently, only certain indoor recreation uses are permitted. Parcel 11 permits theatres; Parcels 13 and 18-20 permit racquetball, tennis and health clubs; and Parcel 12 permits all these uses.

The new uses would be animal care, general; construction sales and service; manufacturing limited; vehicle repair, general; vocational school; warehouse, self-service storage; warehousing; and wholesale or business service. Several of these uses are first permitted in the “OW” Office Warehouse district, but several are not. A rezoning to “GC” would allow all the requested uses by-right.

No other changes to the C.U.P. were requested by the amendment.

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The property is located northwest of the interchange of Ridge Road and Kellogg. The closest land uses are Typed Letters Corporation, Pitney Bowes, Sunrise Gymnastics, American Family Insurance and two vacant parcels to the north. Lowe's is located beyond University/Taft on the north. Another large vacant tract north of University, DP-245 Ashley Towne Centre, was approved for a shopping center but is not final because it has not been platted.

Ridge Road/Mid-Continent Drive is the eastern boundary of the proposed site. The Palace and several restaurants are located on the east side of Ridge (Carlos O'Kelley's, International House of Pancakes, Golden Corral). A hotel (Quality Inn), restaurants (Amarillo Grill, The Fortune Cookie) and an office park with many small tenant spaces are located to the west. Kellogg is the southern boundary. No uses are visible on the other side of Kellogg, but land is held in large acreages associated with the airport.

The parcels are on a main flight path to Wichita Mid-Continent Airport. Low flying aircraft fly over the site every few minutes.

At the MAPC meeting held on September 6, 2001, MAPC voted (8-0) to recommend approval subject to Staff comments, and directed the applicant and Staff to discuss and mutually agree upon terms for roof-top screening per Condition #4 prior to the case being forwarded to the Wichita City Council. These discussions have been concluded and the decision was to keep the language as proposed in the staff report. No citizens were present to speak on the proposed changes.

At the District V Advisory Board meeting held September 9, 2001, DAB voted (4-0) to support the recommendations of MAPC. No citizens were present to speak on the proposed changes.

Motion --

Knight moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the zone change and C.U.P. amendment, subject to recommended conditions, be approved; and the Ordinance be placed on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, as amended, introduced and under the rules laid over. ZON2001-00052

A01-16

A01-16 – ANNEXATION OF LAND GENERALLY LOCATED AT NORTHEAST CORNER OF PAWNEE AND WEBB ROAD. (District II)

Agenda Report No. 01-1131.

The City has received a request to annex approximately 93 acres situated at the northeast corner of Pawnee and Webb Road. The site abuts the City of Wichita to the north and west. The property owner is planning to develop the site with a 16,000 sq/ft commercial building, 180 units of single family residential, and 65 patio homes. The staging of development has been planned over multiple years, with 100% of development projected to occur within 4 years.

Land Use and Zoning: The annexation site is presently in agricultural use and consists of one (1) undeveloped tract of land zoned "SF-20" Single Family residential. On January 17, 2001, the property owner's request that approximately 1.4 acres of the site be rezoned "NO" Neighborhood Office and 12.6 acres be rezoned "MF-18" Multi-Family Residential was approved by the Sedgwick County Board of County Commissioners. The remaining acreage contained in the site continues to be zoned "SF-20" Single Family Residential but will automatically convert to "SF-5" Single Family Residential upon annexation. Land east and south of the site is zoned "SF-20" Single Family Residential, while property north west of the site is developed with residential properties and is zoned "SF-5" Single Family Residential as well as "MF-18" Multi-Family Residential. A final plat for the proposed annexation area

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was approved by the Metropolitan Area Planning Commission on July 5, 2001, and is currently pending approval by the City Council.

Public Services: The City Water and Sewer Department indicates that the subject property proposed for annexation will likely connect to either a 20" water main along Webb or a 16" water main being extended from Webb Road east toward Greenwich by the end of this year. City at-large revenues will pay for the cost of this water main extension. For sewer, it is anticipated that the development will connect to the 4-Mile Creek Sewer system owned by the City of Wichita.

Street System: The property proposed for annexation will have access to Webb Road, which serves the area as the nearest major north-south road, and Pawnee, which serves the area as the nearest major east-west road. Webb Road is a four-lane arterial, while Pawnee is a two-lane arterial. At the present time, Webb Road from Pawnee north to Harry is currently being reconstructed and is scheduled to be completed by the end of the year. There are no other plans to further improve these sections of road in either the 2001-2010 City of Wichita Capital Improvement Plan (C.I.P.) or the 2001-2005 Sedgwick County Capital Improvement Program (C.I.P.).

Public Safety: The Wichita Fire Department can serve this site within a six (6) to eight (8) minute approximate response time from City Station #15 located at the intersection of Lincoln and Rock Rd. According to the 2001-2010 City of Wichita Capital Improvement Plan (C.I.P.), this station will be relocated to the intersection of Harry and Webb Road, with construction to begin in 2002. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 South. Edgemoor.

Parks: Towne Park is located approximately 1 mile southwest and W.B. Harrison Park is located approximately 1.5 miles north of the property proposed for annexation. The property proposed for annexation is within the service boundary of Harrison Park, but not Towne Park.

School District: The property is located in Unified School District 259 (Wichita School District). Annexation will not change the school district.

Comprehensive Plan: The property is also located within the Wichita 2010 and 2030 urban service area, as depicted in the 1999 Update to the Comprehensive Plan, adopted last year by the City Council.

The property proposed for annexation has not yet been platted. The total assessed value of the property is \$5,240. The future assessed value of this property will depend on the timing of development, the type of development, and the current mill levy. However, the applicant projects an overall appraised value of \$40,870,000 when development is completed, resulting in an assessed value of \$4,904,400. Assuming the current City levy remains about the same (\$31.406/\$1000 x assessed valuation), this would roughly yield \$154,028 in City annual tax revenues.

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

Motion --
-- carried

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

ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, introduced and under the rules laid over. A01-16

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AIRPORT AGENDA

AIRPORT

FACILITY MANAGEMENT SYSTEM.

Agenda Report No. 01-1132.

There is a considerable investment in a facility management system (FMS) used to control and automate several of the buildings located on Mid-Continent Airport and Jabara Airport. The FMS provides efficiency that helps to control labor and utility costs. The system was installed in 1982 by BCS and is maintained by them under an annual service agreement.

It is necessary to replace SCU #4 and #12 cabinets due to age and to maintain compatibility between the various components of the system as upgrades are made.

The cost is \$27,335 and is included in the current operating budget.

Motion -- carried

Knight moved that the purchase be approved. Motion carried 7 to 0.

AIRPORT

SECURITY GUARD SERVICES.

Chris Cherches

City Manager said this Item is subject to change pending security requirements by the FAA.

Agenda Report No. 01-1133.

The Federal Aviation Administration (FAA) has mandated an increase in security measures at airports due to the terrorist attacks of September 11, 2001. It will be difficult to accomplish the implementation of these measures on an on-going basis with current staff levels.

Staff obtained proposals from three security service companies which were reviewed based on local source, price and level of service available. It is recommended that PSI be contracted with for one year subject to a five day cancellation clause by either party. The City currently contracts with PSI to provide guard services for the Health Department. At onset, additional staffing of two guards will be required although that number will be adjusted as needed.

The hourly charge is \$16.27/guard for the first thirty days and \$15.58/guard thereafter. The cost of the additional staffing will be re-billed directly to the tenant group benefiting from the security services and will not impact the operating budget.

Motion --
-- carried

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

ADJOURNMENT

The City Council meeting adjourned at 10:17 a.m.

Pat Burnett CMC
City Clerk