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FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. June 15, 2010

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the regular meeting on June 8, 2010 and Special Council Workshop Meeting on June 2, 2010

AWARDS AND PROCLAMATIONS

-- Proclamations:

ADA 20th Anniversary Recommitment
Bobby Stout Appreciation Week

-- Awards:

Service Award (Retirement)

I. PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Ken Thomas - Water and Sewer business model, board of sewer appeals, board of clean water, and E.P.A. method standards.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Repair or Removal of Dangerous and Unsafe Structures, 1908 North Grove. (District I)

   RECOMMENDED ACTION: The City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) the structure is maintained secure as of June 15, 2010 and is kept secured during renovation; and (2) the premise is kept clean and free of debris as of June 15, 2010, and is so maintained during renovation.

2. Bicycle Ordinances.
   (Deferred May 4, 2010)

   RECOMMENDED ACTION: Approve the proposed amendments and place the ordinances on first reading.

3. Public Hearing on the Establishment of a Redevelopment District (STAR Bond Financing) for the Bowllagio STAR Bond District. (District V)
   (Deferred June 8, 2010)

   RECOMMENDED ACTION: Close the public hearing, place on first reading the ordinance establishing a project district for the Bowllagio STAR Project District and set the second reading of the ordinance for the first City Council meeting following receipt of a determination letter from the Kansas Secretary of Commerce and the completed Marketing Study.

III. NEW COUNCIL BUSINESS

1. Approval of Economic Development Incentives, Cargill, Inc. (District I)

   RECOMMENDED ACTION: Approve the incentive package for Cargill and authorize the necessary signatures.

2. Wichita Downtown Development Corporation - Contract Extension.

   RECOMMENDED ACTION: Close the public hearing, approve the contract amendment with the Wichita Downtown Development Corporation, and authorize the necessary signatures.

3. Water and Sewer Rate Increases.

   RECOMMENDED ACTION: Adopt either Option 1b or Option 5 with G.O. Debt financing and the following utility rate increase:

	2010	2011
Water	7.5%	8.0%
Sewer	10.0%	8.0%

4. 2009 Comprehensive Annual Financial Report.

   RECOMMENDED ACTION: Receive and file the 2009 Comprehensive Annual Financial Report and the Independent Auditor's report regarding internal control and compliance with administration of major federal programs for the year ended December 31, 2009.

5. Contract Lease Extension with Henry Helgerson Company.

   RECOMMENDED ACTION: Approve the amendment to the Storage Agreement Lease with the Henry Helgerson Company for 2010.

6. Ordinance Amending Sections 3.49.020, 3.49.030 and 11.97.060, pertaining to Emergency Wrecker Services.

   RECOMMENDED ACTION: Place the ordinance on first reading.

7. Amendments to Chapter 3.11 of the Code of the City of Wichita, relating to Community Events.

   RECOMMENDED ACTION: Place the ordinance on first reading and authorize the necessary signatures.

8. 2010 State Justice Assistance Grant (JAG).

   RECOMMENDED ACTION: Approve the grant application.

9. 2010 Federal Justice Assistance Grant (JAG).

   RECOMMENDED ACTION: Approve the MOU and authorize the appropriate signatures.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

IV. NON-CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 3)

1. ZON2010-00013 City amendment to Protective Overlays #63, 70, 113 and 117 on properties zoned LC Limited Commercial ("LC"); generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V) (Deferred June 8, 2010)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the provisions of Protective Overlays # 63, 70, 113 and 117, as recommended; and place the ordinances with the Protective Overlays on first reading; OR

   2) Adopt the findings of the MAPC, but modify its recommendation by the addition of the provision 'Trash pickup on the subject property shall between 8:00 AM and 10:00 PM.' to the amended Protective Overlays #63, 70, 113 and 117 as recommended by DAB V; and place the modified ordinances on first reading (an override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.); OR

   3) Return the application to the MAPC for reconsideration.

2. ZON2010-00004 - City zone change from SF-5 Single-family Residential ("SF-5") to NO Neighborhood Office ("NO") with a Protective Overlay; generally located ¼ mile south of 21st Street North and west of Ridge Road. (District V)

   RECOMMENDED ACTION: 1) Concur with the findings of the MAPC, and deny the requested zone change; OR

   2) Approve the requested zone change by making alternative findings, and override the MAPC's recommendation and the valid protest (requires 2/3 majority vote to override the MAPC's recommendation and a 3/4 majority to override the valid protest); OR

   3) Return the case to the MAPC for further consideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

3. CON2010-00008 – Request for a Conditional Use to allow Wrecking /Salvage Yard on property located at the southwest corner of 29th Street and Mead. (District VI)

RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and approve the Conditional Use, subject to the recommended conditions (requires a three-fourths majority); OR

2) Concur with the findings of the MAPC and approve the Conditional Use subject to the additional requirement for a six to eight-foot berm and an eight-foot screening wall (requires a two-thirds majority to modify the MAPC's recommendation); OR

3) Deny the Conditional Use request by making alternative findings, and override the MAPC's recommendation (requires a two-thirds majority vote to override the MAPC's recommendation); OR

4) Return the case to the MAPC for further consideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

V. CONSENT PLANNING AGENDA

None

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Summer Jackson, Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. City Council Compensation.

   RECOMMENDED ACTION: Receive and file.

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 9A)

1. Report of Board of Bids and Contracts.
   a. Report of Board of Bids and Contracts dated June 14, 2010.

   RECOMMENDED ACTION: Receive and file report; approve Contracts; authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2010	(Consumption off Premises)
Sally Jo Herman	Dillons Store#272	10304 West 13th Street North
Kim Huynh	Kim Son Asian Food Market	960 East Pawnee
Kulwinder Jaswal	Petro America	2700 North Amidon Street
Bob Palmer	Oncue Express #600	433 South Greenwich Road
Harinderpal Sira	Flying Eagle I (Midport Corp)	277 South Ridge Road

Renewal	2010	(Consumption on Premises)
Alan Leffew	*Bubba's Nekked BBQ	2428 West 13th Street

* General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates: (None)

4. Agreements/Contract:
   a. Odor Control Contract with Natural Resource Protection. (District IV)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

5. Minutes of Advisory Boards/Commissions

Board of Electrical Appeals, April 13, 2010
Transit Advisory Board, May 14, 2010
SSMID Advisory Board, May 5th, 2010
Deferred Compensation Board, February 18, 2010
Board of Appeals of Plumbers and Gas Fitters, March 3, 2010
Board of Appeal of Refrigeration, Air-Conditioning, Warm Air-Heating and Boiler, March 25, 2010

RECOMMENDED ACTION: Receive and file.

6. Microsoft Enterprise Licensing Revisions.

RECOMMENDED ACTION: Approve the contract consolidation and additions.

7. Contracts and Agreements for May 2010.

RECOMMENDED ACTION: Receive and file.

8. Nuisance Abatement Assessments.

   RECOMMENDED ACTION: Approve the proposed assessments and place the ordinances on first reading.

9. Second Reading Ordinances: (First Read June 8, 2010)
   a. Second Reading Ordinances. (See Attached)

   RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

Agenda Item No. II-1

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
1908 N Grove (District I)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing.

Background: This property was first before the Board of Code Standards and Appeals (BCSA) on September 14, 2009. Two members of the Smith family were at the hearing to represent the property. At that hearing the representatives told the Board that they planned to sell the property. The Board voted to allow 60 days for the sale of the property, and if the property was not sold in that time, send it on to City Council with a recommendation for demolition.

The property was not sold, no repairs were made, and the taxes were delinquent.

On February 2, 2010, the granddaughter of the owner of this property, Ms. Natasha Smith, attended the Council meeting. She requested time to repair the property and indicated that she had contacted Housing and Community Services to request assistance. Council voted to allow Ms. Smith 60 days to demolish the shed, clean the premises and pay the taxes, and also directed staff to report back in 60 days.

On April 14, 2010, staff made contact with Housing and Community Services to check the status of the assistance request. Staff was informed that, since the property was not owner occupied, there were no available funds to repair the property.

On April 19, 2010, staff made contact with Natasha Smith regarding her plans to repair the structure. Ms. Smith advised staff that, without assistance, she did not have the funds to repair the property.

On April 23, 2010, staff reported the status of the property to City Council Member Lavonta Williams.

Staff made several attempts, during the month of May, to contact Ms. Smith and left messages for her to return the call. She has not made contact with staff.

Analysis: OCI Staff inspected the property on May 27, 2010; no repairs had been made, but the property was secure. The property was mowed and clear of junk and debris.

The property taxes are now current and there are no special tax assessments pending.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures

demolished by the City are billed for the contractual costs of demolition, plus an additional $500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: 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.

Legal Considerations: The owner has been informed of the date and time of the hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) the structure is maintained secure as of June 15, 2010 and is kept secured during renovation; and (2) the premise is kept clean and free of debris as of June 15, 2010, and is so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

Attachments: None

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Bicycle Ordinances

INITIATED BY: Wichita Police Department

AGENDA: Unfinished Business

Recommendation: Recommend that bicycle ordinances be amended or repealed as delineated.

Background: A committee of City staff from the Police, Parks, Public Works, Planning and Law Departments examined the existing City Code and provided input resulting in the proposed ordinance amendments. City staff has worked with Oz Bicycle Club, and the Wichita Bike-Walk Alliance as well as holding an open public forum to generate conversation and accept feedback on proposed changes. All parties agree that many current ordinances are not bicycle friendly and are difficult to comply with and enforce.

Analysis: Recommended for elimination are the following provisions of City Code:

- All sections pertaining to bicycle licensing.
- Requiring the use of a bike rack if parking within a city block of a rack in core area.
- Requiring that police impound unsafe bicycles.
- The $2 impound fee.
- Allowing infants to be carried in backpack or sling.
- Duplicate requirements that are covered in City Code regarding traffic.
- Requiring bicyclists to operate within five feet of the right hand of the curb or edge of the street.

Kansas State Statute KSA 8-1590 requires that bicyclists "ride as near to the right side of the street…as practicable" and "Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway." Proposed City Ordinance changes incorporate this language to be consistent and in compliance with State Statute.

Financial Considerations: None.

Legal Considerations: The ordinances have been drafted by the Law Department and are approved as to form.

Goal Impact: Provide Safe and Secure Neighborhoods and Enhance Quality of Life by eliminating and amending existing ordinances to enhance the enjoyment of bicycling within the City.

Recommendations/Actions: It is recommended that the City Council approve the proposed amendments and place the ordinances on first reading.

Attachments: Delineated copy of the ordinances.

First Published in The Wichita Eagle on June 25, 2010

5/13/10

ORDINANCE NO.48-754

AN ORDINANCE AMENDING SECTIONS 11.48.010, 11.48.100, 11.48.120, 11.48.130, 11.48.170, 11.48.175, AND 11.48.180, AND REPEALING SECTIONS 11.48.020. 11.48.030, 11.48.040, 11.48.050, 11.48.060, 11.48.070, 11.48.080, 11.48.110 AND 11.48.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO LICENSING OF AND TRAFFIC RULES GOVERNING BICYCLES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.48.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Definitions.** (a) Bicycle. "Bicycle" means every vehicle propelled by human power upon which any person may ride having two or more tandem wheels, any of which is more than fourteen inches in diameter, but does not include any mobility device as defined by the Americans with Disabilities Act.

(b) Bike path. "Bike path" or "bicycle path" means a paved route separated from car traffic and designated for bicycle use.

(c) Bike lane. "Bike lane" or "bicycle lane" means a portion of the roadway designated for bicycle use separated from autos by a paint stripe, raised divider, or marked by signs and/or paint on the roadway.

(d) Bike route. "Bike route" means a route designated on streets having low traffic volume, marked by signs and/or paint on the street.

(e) Nighttime. "Nighttime" as used in this chapter means any time from a half hour after sunset to a half hour before sunrise, or at any other time when, due to insufficient

light or unfavorable atmospheric conditions, persons and vehicles on the streets, highways or roadways are not clearly discernable at a distance of one thousand feet ahead.

The regulations of this chapter applicable to bicycles shall apply whenever a bicycle is operated upon any sidewalk, street, roadway, highway, or public path set aside for the exclusive use of pedestrian and bicycle traffic, and shall also include all public parks and playgrounds or other property under the ownership, jurisdiction or control of the city, the board of park commissioners or any other agency created to provide a public service in or adjacent to the city."

SECTION 2. Section 11.48.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Subject to traffic-control devices and traffic regulations. Every person riding a bicycle upon a street, highway or roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this code except as to special ordinances so designated and except to those provisions of this code which by their nature can have no application."

SECTION 3. Section 11.48.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Riding on roadways and bicycle paths. (a) Every person operating a bicycle upon a street, highway or roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the street, highway, or roadway as practicable, except under any of the following situations when:

(1) overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) preparing for a left turn at an intersection or into a private road or driveway; or

(3) reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving bicycles, pedestrians, animals, surface hazards or narrow width lanes that make it unsafe to continue along the right-hand edge of the street, highway or roadway.

(b) Any person operating a bicycle upon a one-way street, highway or roadway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.

(c) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(d) Wherever a usable path for bicycles has been provided adjacent to a street, highway or roadway, bicycle riders shall use such path and shall not use the street, highway or roadway.

(e) For purposes of this section, "narrow width lane" means a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane."

SECTION 4. Section 11.48.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Riding upon bicycles and carrying passengers** (a) A person riding a bicycle upon a street, highway, roadway, alley, bike path, bike lane or sidewalk of the city shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, provided, however, that a child who is less than five years of age may be carried on a bicycle by a person operating said bicycle if the following conditions are met:

(1) The person operating the bicycle must either be the parent or legal guardian of the child or have the consent of the parent or legal guardian;

(2) The child must be carried on a seat constructed on the rear of said bicycle, which seat must be a manufactured type that complies with the current Consumer Product Safety Commission Standards;

(3) An adult rider may carry a child in a wheeled child carrier designed for attachment to a bicycle."

SECTION 5. Section 11.48.170 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Parking of bicycles. It is unlawful for any person to park or leave a bicycle on public property where such bicycle blocks pedestrian travel or presents a traffic hazard."

SECTION 6. Section 11.48.175 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Impounding bicycles.** Bicycles shall be impounded to the police department or to any other place of safety:

(a) When such bicycle is abandoned;

(b) When such bicycle is reported or determined to be stolen and is recovered; or

(c) When such bicycle is left parked on public property where that bicycle blocks pedestrian travel or presents a traffic hazard.

A bicycle impounded by the police department shall not be released until the bicycle has been investigated and the rightful owner is found and shows proof of ownership."

SECTION 7. Section 11.48.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Sale of unclaimed or impounded bicycles**. Whenever a bicycle has been impounded for a period of 30 days and no claim of ownership or the right to possession thereof has been made and established to the satisfaction of the police department, such bicycle shall be sold at public auction, after legal publication of the time, date and location of such sale.

SECTION 8. The originals of Sections 11.48.010, 11.48.020, 11.48.030, 11.48.040, 11.48.050, 11.48.060, 11.48.070, 11.48.080, 11.48.100, 11.48.110, 11.48.120. 11.48.130, 11.48.170, 11.48.175, 11.48.180 and 11.48.190 of the Code of the City of Wichita , Kansas, are hereby repealed.

SECTION 9. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of June, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

First Published in The Wichita Eagle on _____

DELINEATED 5/13/10

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 11.48.010, 11.48.100, 11.48.120, 11.48.130, 11.48.170, 11.48.175, AND 11.48.180, AND REPEALING SECTIONS 11.48.020. 11.48.030, 11.48.040, 11.48.050, 11.48.060, 11.48.070, 11.48.080, 11.48.110 AND 11.48.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO LICENSING OF AND TRAFFIC RULES GOVERNING BICYCLES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.48.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Definitions.** (a) Bicycle. "Bicycle" means every vehicle propelled by human power upon which any person may ride having two or more tandem wheels, any of which is more than ~~twenty~~ fourteen inches in diameter, but does not include any mobility device as defined by the Americans with Disabilities Act.

(b) Bike path. "Bike path" or "bicycle path" means a paved route ~~path or road especially for bikes physically~~ separated from car traffic and designated for bicycle use.

(c) Bike lane. "Bike lane" or "bicycle lane" means a ~~clearly marked lane on the side of a street or road~~, portion of the roadway designated for bicycle use separated from autos by a paint stripe, ~~or~~ raised divider, or marked by signs and/or paint on the roadway.

(d) Bike route. "Bike route" means a route designated on streets having low traffic volume, marked by signs and/or paint on the street.

(e) Nighttime. "Nighttime" as used in this chapter means any time from a half hour after sunset to a half hour before sunrise, or at any other time when, due to insufficient

light or unfavorable atmospheric conditions, persons and vehicles on the streets, highways or roadways are not clearly discernable at a distance of one thousand feet ahead.

The regulations of this chapter applicable to bicycles shall apply whenever a bicycle is operated upon any sidewalk, street, roadway, highway, or ~~upon any~~ public path set aside for the exclusive use of pedestrian and bicycle traffic, and shall also include all public parks and playgrounds or other property under the ownership, jurisdiction or control of the city, the board of park commissioners or any other agency created to provide a public service in or adjacent to the city."

SECTION 2. Section 11.48.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Subject to traffic-control devices and traffic regulations. Every person riding a bicycle upon a street, highway or roadway shall be granted all of the rights and shall ~~obey all traffic ordinances~~ be subject to all of the duties applicable to the driver of ~~any other~~ a vehicle by this code except as to special ordinances so designated and except to those provisions of this code which by their nature can have no application."

SECTION 3. Section 11.48.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Riding on roadways and bicycle paths~~—Turns and stop signals~~. (a) ~~Any~~ Every person ~~riding~~ operating a bicycle ~~in traffic moving in the same direction at such time shall ride within five feet of the right-hand curb or edge of the~~ upon a street, highway or roadway ~~or alley, except under any of the following conditions:~~ at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the

~~(1) Persons fourteen years of age or older may ride as close as reasonably possible to the~~ right ~~-hand curb or edge~~ side of the street, highway, or roadway ~~or alley~~ ~~when riding two abreast;~~ as practicable, except under any of the following situations when:

~~(2)~~ (1) ~~When~~ overtaking and passing another bicycle or vehicle proceeding in the same direction;

~~(3)~~ (2) ~~When~~ preparing for a left turn at an intersection or into a private road or driveway; or

~~(4)~~ (3) ~~When~~ reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, ~~vehicles~~, parked or moving bicycles, pedestrians, animals, surface hazards ~~right-turn or left-turn lanes~~ or narrow width lanes that make it unsafe to continue along the right-hand ~~or left-hand curb or~~ edge of the street, highway or roadway.

~~(5) When operating a bicycle upon a street, highway, roadway or alley of the city which carries traffic in one direction only, the bicyclist shall ride within five feet of the left-hand curb or edge of roadway, except under any of the situations as detailed in subdivisions (1), (2), (3) or (4) of this subsection.~~

(b) Any person operating a bicycle upon a one-way street, highway or roadway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.

(c) ~~Left Turns.~~

~~(1) The driver of a bicycle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel as such bicycle and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered; or~~

~~(2) Approach the intersection beside the curb, proceed through the intersection in the same direction, yield right-of-way to all vehicles proceeding through the intersection, and then make the left turn so as to leave the intersection in the proper position upon the roadway being entered;~~

~~(3) Notwithstanding the foregoing provisions, the state highway commission and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a specific course be traveled by turning bicycles, and when such devices are so placed, no person shall turn a bicycle other than as directed and required by such devices~~.

~~(b)~~ Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. ~~Persons riding two abreast shall not impede the normal and reasonable movement of traffic, and, on a laned roadway, shall ride within a single lane.~~

(d) ~~Turning Movements and Required Signals.~~

~~(1) No person shall turn a bicycle at an intersection unless the bicycle is in proper position upon the roadway as required in this subsection or turn a bicycle to enter a private road or driveway, or otherwise turn a bicycle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any bicycle without giving an appropriate signal;~~

~~(2) A signal of intention to turn right or left shall be given before turning and/or shall be given while the bicycle is stopped waiting to turn;~~

~~(3) No person shall stop or decrease the speed of a bicycle without first giving the appropriate signal.~~

Wherever a usable path for bicycles has been provided adjacent to a street, highway or roadway, bicycle riders shall use such path and shall not use the street, highway or roadway.

(e) For purposes of this section, "narrow width lane" means a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane."

SECTION 4. Section 11.48.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Riding upon bicycles and carrying passengers.** ~~It shall be unlawful for any~~ (a) A person riding a bicycle upon a street, highway, roadway, alley, bike path, bike lane or sidewalk of the city, ~~to carry another person on the same bicycle; provided, however, that this restriction shall not apply to bicycles with dual-operation construction;~~ shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, ~~and~~ provided, however, that a child who is less than five years of age may be carried on a bicycle by a person operating said bicycle if the following conditions are met:

(1) The person operating the bicycle must either be the parent or legal guardian of the child or have the consent of the parent or legal guardian;

(2) The child must be carried on a seat constructed on the rear of said bicycle, which seat must ~~either~~ be a manufactured type ~~or homemade,~~ that complies with the current Consumer Product Safety Commission Standards;

(3) ~~An authorized adult rider may carry an infant securely attached to his person in a backpack or sling~~. An adult rider may carry a child in a wheeled child carrier designed for attachment to a bicycle."

SECTION 5. Section 11.48.170 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Parking of bicycles. ~~(a)~~ It is unlawful for any person to park or leave a bicycle on ~~any street, alley, highway, sidewalk or sidewalk area, bike path or other~~ public property ~~place or way in the city when such place is within one city block of a bicycle rack or area designated for parking bicycles~~ where such bicycle blocks pedestrian travel or presents a traffic hazard.

~~(b) Bicycle racks and areas designated for parking bicycles in the city shall not be located on any street, sidewalk or other public property without prior approval of the traffic engineer.~~

~~(c) The police department shall be authorized to remove any bicycles that are unlawfully parked or left within the city and shall further be authorized to remove any bicycle left or parked on public property where that bicycle blocks pedestrian travel or presents a traffic hazard.~~

SECTION 6. Section 11.48.175 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Impounding bicycles.** ~~**leaving unattended and revocation of license**~~**.** Bicycles shall be impounded to the police department or to any other place of safety ~~under any of the circumstances hereinafter enumerated~~:

(a) ~~When such bicycle is not licensed according to the provisions of this chapter;~~

~~(b) When such bicycle is not in a safe mechanical condition.~~ When such bicycle is abandoned;

(b) When such bicycle is reported or determined to be stolen and is recovered; or

(c) When such bicycle is left parked on public property where that bicycle blocks pedestrian travel or presents a traffic hazard.

A bicycle impounded by the police department shall not be released until the bicycle has been investigated and the rightful owner is found and shows proof of ownership. ~~Then an impound fee of two dollars shall be assessed to the owner before release of the bicycle.~~

SECTION 7. Section 11.48.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Sale of unclaimed or impounded bicycles**. Whenever a bicycle has been impounded for a period of ~~four months~~ 30 days and no claim of ownership or the right to possession thereof has been made and established to the satisfaction of the police department, such ~~bicycles~~ bicycle shall be sold at public auction, after legal publication of the time, date and location of such sale.

SECTION 8. The originals of Sections 11.48.010, 11.48.020, 11.48.030, 11.48.040, 11.48.050, 11.48.060, 11.48.070, 11.48.080, 11.48.100, 11.48.110, 11.48.120. 11.48.130, 11.48.170, 11.48.175, 11.48.180 and 11.48.190 of the Code of the City of Wichita , Kansas, are hereby repealed.

SECTION 9. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Public Hearing on the Establishment of a Redevelopment District (STAR Bond Financing) for the Bowllagio STAR Bond District – Continued from June 8, 2010 (District V)

INITIATED BY: Office of Urban Development

AGENDA: Unfinished Business

Recommendation: Close the public hearing and place the ordinance on first reading.

Background: Starting with the Kansas Speedway project in Wyandotte County, the State of Kansas has approved several "Sales Tax and Revenue" (STAR) bonds for special economic development projects located throughout the state. In 2007, STAR bonds were approved for the River District Project in downtown Wichita in the amount of $13,000,000 to finance the Keeper of the Plains Plaza and bridges, riverbank improvements on the east bank of the Arkansas River between Douglas and First Street, and the Waltzing Waters fountain in the WaterWalk project.

On May 4, 2010, the City Council adopted a resolution stating its intent to consider the establishment of a STAR bond district in the area north of West Kellogg on both sides of Maize Road, to be known as the Bowllagio Star Bond Project District, in order to use STAR Bond financing to pay for eligible project costs. The resolution set 9:30 a.m. on June 8, 2010, or as soon thereafter as possible, as the time for a public hearing before the City Council on this matter. Copies of the resolution were mailed, by certified mail, to all owners and occupants of property in the proposed district, and to the Board of Sedgwick County Commissioners and the U.S.D. 265 Board of Education, according to state law.

City Council opened the public hearing on June 8, 2010. At the meeting, Council voted to continue the public hearing and defer action on creation of a STAR Bond district until June 15, 2010.

Analysis: STAR bond financing allows the Kansas Department of Revenue to measure and capture the incremental increase in state and local sales tax revenue collected within an approved STAR bond district and remit a portion of said revenue to the city or county in which the STAR bond district is located, to pay the principal and interest on STAR bonds issued to finance certain eligible costs associated with an approved STAR bond project. Local sales tax revenue pledged to pay STAR bonds is limited to the City's share of the countywide sales tax not previously pledged to pay city bonds. Generally, STAR bonds may be used to finance land acquisition, site work, infrastructure and parking facilities.

The Bowllagio Project is identified by the developer, Jay Maxwell and Maize 54 LLC, as a mixed-use entertainment district that will be unique to the Wichita region and will be nationally recognized, based on the family entertainment anchor, the "Bowllagio." The Bowllagio will offer a unique blend of location-based entertainment with bowling as the primary attraction, coupled with restaurant and bar operations and state-of-the-art gaming attractions. A special feature that is proposed as part of Bowllagio is a world-class training facility which will include instruction for bowlers and that is expected to attract competitive bowlers from around the country, and a museum dedicated to the history of bowling.

The proposed Bowllagio STAR bond district includes approximately 32 acres of property on the northeast corner of Kellogg Drive and Maize Road, generally between Maize Road and the Cowskin Creek, from Kellogg north to the alignment with Hidden Valley Street. The proposed district also includes approximately 8 acres of property on the northwest corner of Kellogg Drive and Maize Road.

Conceptually, the Bowllagio Project has been divided into four overlapping phases. The first phase includes construction of the 91,000 square foot Bowllagio family entertainment center, celebrity chef inspired themed restaurant, and a 110-room boutique hotel, plus the development of an adjacent parking garage with over 40,000 square feet of retail space near the northeast corner of Kellogg Drive and Maize Road. The second phase is planned to include restaurant pad sites on the Kellogg Drive frontage and on Maize Road, plus a second parking garage with 25,000 square feet of retail space, and other entertainment venues. The third phase is planned to include outparcel development of Kellogg frontage west of Maize Road, including restaurants, retail and an 80-room hotel. The final phase is the farthest north on Maize Road and is planned to include restaurants and office buildings along the Cowskin Creek and a third parking garage with over 20,000 square feet of retail space. These plans are conceptual and preliminary.

Prior to establishment of the district, the Secretary of Commerce must make a determination that the district is in an eligible area based on statutory criteria. Following the public hearing and receipt of a determination letter from the Secretary, the City Council may adopt an ordinance establishing the STAR bond district. The Board of County Commissioners and the Board of Education for USD 265 will have 30 days following the closing of the public hearing to determine whether establishment of the district will have an adverse impact on property taxes, effectively precluding the use of STAR bond financing.

Following approval of the district, the next step in the overall process is more involved. Working closely with the developer, a detailed STAR bond project plan and feasibility study is prepared and submitted to the MAPC for a finding that the plan is consistent with the Comprehensive Plan. The project plan must include a "marketing study" that demonstrates that the project will generate at least $50,000,000 in gross sales and will not have a significant negative impact on existing businesses in the projects market area. After MAPC approval, the City Council may set a public hearing and adopt the STAR bond project plan by ordinance, following the same process used to establish the STAR bond area. The STAR bond plan and ordinance are then submitted to the Secretary of Commerce for final approval of the STAR bond project. After the Secretary's approval is received, the project may commence and STAR bonds may be issued up to the amount specified by the Secretary of Commerce.

Following City Council action on June 8, 2010 to defer creation of the STAR Bond District, City staff has held discussions with Maize 54 LLC regarding additional information needed to proceed. The Developers propose to work with staff and the representatives of the Kansas Department of Commerce to determine the appropriate scope of a marketing study, to include the project's likely impact on existing businesses in the market area and the expected draw of tourists from out-of-state and from more than 100 miles away. The Developers propose to provide the completed study, based on the agreed-to scope, prior to final adoption of the City ordinance creating the STAR Bond District.

Financial Considerations: Any STAR bonds issued for this project will be special obligation bonds of the City, payable solely from the incremental sales tax revenue remitted by the Kansas Department of Revenue for payment of the bonds. The City's general obligation credit cannot be pledged to repay STAR bonds. All eligible costs of the City relating to the project will be reimbursed with STAR bond proceeds. Only if the detailed project plan is adopted and approved by the Secretary of Commerce, and the specific improvements authorized by Council action, will the STAR bonds actually be issued.

Staff has had discussions with the Developers concerning their ability to obtain private financing for the project. The Developers are unable to provide loan commitments at this stage in the process; however, they will provide documentation from a bank expressing the bank's confidence that the individuals in the development group have sufficiently high net worth to qualify for bank financing.

Goal Impact: The City Council's goals for Economic Vitality and Affordable Living and Quality of Life are advanced through the use of STAR bonds to partner with developers to create a major commercial, entertainment and tourism site that will bring significant economic value to the City, enhance the satisfaction of residents and improve Wichita's competitive position as a desirable place to live and work.

Legal Considerations: The ordinance establishing the Star bond project district has been reviewed by the City's Law Department and approved as to form. To be an eligible area for STAR bond financing, under the law, the project must be determined to be a major commercial entertainment and tourism area, requiring a minimum $50,000,000 capital investment and projected gross sales of $50,000,000. The Secretary of Commerce must make a determination that the district is an eligible area prior to final adoption of the Ordinance on second reading by the City Council, which will also make a finding that the district is an eligible area.

Recommendations/Actions: It is recommended that the City Council close the public hearing, place on first reading the ordinance establishing a project district for the Bowllagio STAR Project District and set the second reading of the ordinance for the first City Council meeting following receipt of a determination letter from the Kansas Secretary of Commerce and the completed Marketing Study.

Attachments: Ordinance establishing the STAR Bond Project District; District Map and Boundary Description; District Plan.

028001 **PUBLISHED IN THE WICHITA EAGLE ON**
Ordinance No. 48-752

AN ORDINANCE OF THE CITY OF WICHITA
ESTABLISHING THE BOWLLAGIO STAR BOND PROJECT DISTRICT

WHEREAS, the provisions of K.S.A. 12-17, 165, as amended, set forth the procedure for the establishment of a STAR bond district for certain purposes in eligible areas; and

WHEREAS, the Governing Body of the City of Wichita, by Resolution No. R 10-132 dated May 4, 2010, has given notice of its consideration of the establishment of a STAR bond district and described a proposed district plan that identifies all of the proposed project areas along with a general description of the buildings and facilities to be constructed or improved; and

WHEREAS, the Bowllagio STAR Bond Project District area appears to qualify as, and has been determined by the Kansas Secretary of Commerce (the "Secretary") to constitute, an eligible area as a "major commercial entertainment and tourism area" under the provisions of K.S.A. 2009 Supp. 12-17, 162, as amended; and

WHEREAS, the Governing Body of the City of Wichita, finds and determines that the development of the area is necessary to promote the general and economic welfare of the City; and

WHEREAS, a public hearing required by K.S.A. 12-17, 165, as amended has been held and concluded; and

WHEREAS, the Governing Body of the City of Wichita desires to establish a STAR Bond Project District that encompasses the Bowllagio STAR Bond Project District area,

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. The Governing Body hereby finds and determines that the Bowllagio STAR Bond Project District area qualifies as, and has been determined by the Kansas Secretary of Commerce (the "Secretary") to constitute, an eligible area as a "major commercial entertainment and tourism area" under the provisions of K.S.A. 12-17, 162, as amended, and that the STAR Bond Project District is a "STAR Bond Project" as defined in K.S.A. 2009 Supp., and amendments thereto.

Section 2. A redevelopment district is hereby established that shall hereafter be designated the Bowllagio STAR Bond Project District, the description and boundaries of such redevelopment district in the City of Wichita, Sedgwick County, Kansas, are set forth in Exhibits "A" attached hereto and incorporated herein by reference.

Section 3. The STAR Bond Project District Plan identifying all the proposed project areas along with a general description of the buildings and facilities that are proposed to be constructed or improved in each STAR bond project area is adopted as the redevelopment district plan for the Bowllagio STAR Bond Project District, and is set forth in Exhibit "B" attached hereto and incorporated herein by reference.

Section 4. This ordinance shall be in force and effect from and after its passage, and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22nd day of June, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

Approved as to Form:

_____

Gary E. Rebenstorf, City Attorney

EXHIBIT A

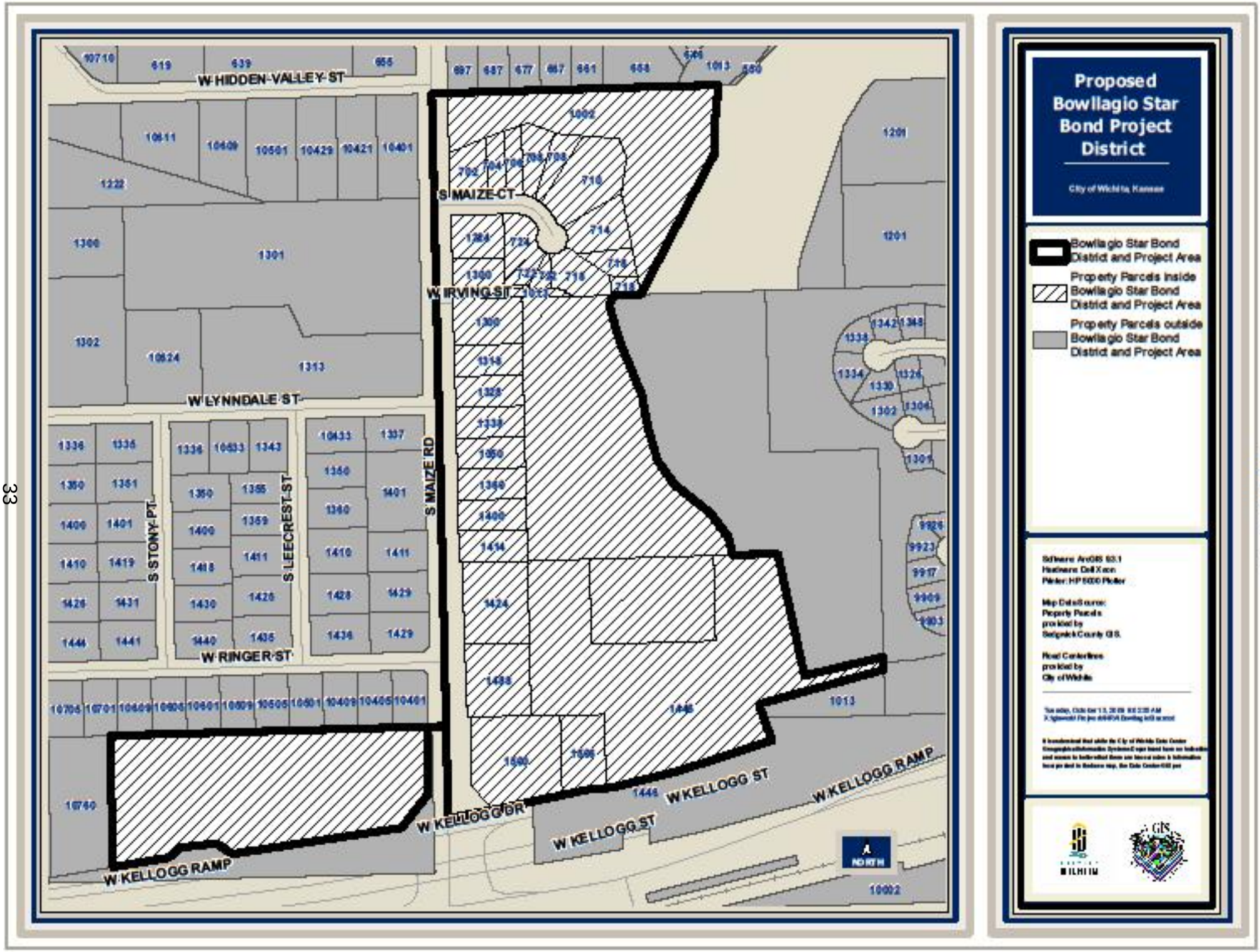
Proposed Bowllagio Star Bond Project District
City of Wichita, Kansas
Bowllagio Star Bond District and Project Area
Property Parcels inside Bowllagio Star Bond District and Project Area
Property Parcels outside Bowllagio Star Bond District and Project Area
W HIDDEN VALLEY ST
W LYNNDALE ST
W RINGER ST
S STONY PT
S LEECREST ST
S MAIZE RD
S MAIZE CT
W IRVING ST
W KELLOGG DR
W KELLOGG ST
W KELLOGG RAMP
NORTH

EXHIBIT A (Continued)

BOWLLAGIO STAR BOND PROJECT DISTRICT
LEGAL DESCRIPTION
(Preliminary 8-19-09)

A tract of land located in Wichita, Sedgwick County, Kansas described as follows:

Beginning at the southeast corner of Autocraft Addition, Wichita, Sedgwick County, Kansas, said southeast corner also lying on the north right of way line of Harry Drive (now Kellogg Drive); thence north along the east line of said Autocraft Addition to the northeast corner of said Autocraft Addition, said northeast corner lying on the south line of Cedar Lane 5th Addition, Sedgwick County, Kansas; thence east along said south line of said Cedar Lane 5th Addition to the southeast corner of said Cedar Lane 5th Addition, said southeast corner lying on the west line of Maize Road right of way; thence north along the west line of Maize Road right of way to the northeast corner of Aldon Addition, Wichita, Sedgwick County, Kansas, said northeast corner lying on the north line of the SE/4, Section 30, Township 27 South, Range 1 West of the 6th P.M.; thence east along the said north line of the SE/4, Section 30 to the northeast corner of said SE/4, said northeast corner also being the northwest corner of the SW/4, Section 29, Township 27 South, Range 1 W of the 6th P.M.; thence east along said north line of the SW/4, Section 29 to the northwest corner of Marshall Addition, Sedgwick County, Kansas; thence continuing east along said north line of the SW/4, Section 29 to the northeast corner of said Marshall Addition; thence southerly along the east line of said Marshall Addition to the southerly most southeast corner of said Marshall Addition; thence west along the south line of said Marshall Addition to a point of intersection with the west line of a Ponding & Overland Flowage Easement as described in DOC#/FLM-PG: 28652651 as recorded with the Sedgwick County Register of Deeds; thence south along the west line of said Ponding & Overland Flowage Easement to a point of intersection with the north line extended of Kansas State Bank Addition, Wichita, Sedgwick County, Kansas, said point of intersection also lying on the north line of Maize 54 Addition, Wichita, Sedgwick County, Kansas; thence east along the north line of said Maize 54 Addition to the northerly most northeast corner of said Maize 54 Addition; thence south along an east line of said Maize 54 Addition for a distance of 402.26 feet to a corner in said Maize 54 Addition; thence northeasterly along a north line of said Maize 54 Addition for a distance of 258.58 feet to the easterly most northeast corner of said Maize 54 Addition; thence south along an east line of said Maize 54 Addition to a point of intersection with the north right of way line of Kellogg Drive; thence west along said north right of way line of said Kellogg Drive to the southerly most southwest corner of said Maize 54 Addition, said southwest corner also being the southeast corner of Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence continuing west along said north right of way line of said Kellogg Drive to the southwest corner of said Quiktrip 10th Addition, said southwest corner also being the southeast corner of Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas; thence continuing west along said north right of way line of said Kellogg Drive to the southerly most corner of said Quiktrip 8th Addition, said southerly corner also being a point of intersection with the south line of Lot 16, Verda Vista, Sedgwick County,

Kansas; thence northwesterly to a corner of said Quiktrip 8th Addition, said corner lying on the east right of way line of Maize Road; thence west on a line perpendicular to the west line of the SW/4, Section 29, Township 27 South, Range 1 West of the 6th P.M. to a point of intersection with said west line, said point of intersection also lying on the east line of the SE/4, Section 30, Township 27 South, Range 1 West of the 6th P.M.; thence west on a line perpendicular to the east line of said SE/4, Section 30 to a point of intersection with the west right of way line of Maize Road; thence south along said west right of way line of Maize Road to a point of intersection with the north right of way line of Kellogg Drive; thence west along said north right of way line of Kellogg Drive to the Point of Beginning.

EXHIBIT B

STAR BOND PROJECT DISTRICT PLAN FOR THE DEVELOPMENT OF THE BOWLLAGIO STAR BOND DISTRICT

June 8, 2010

SECTION 1: PURPOSE

A STAR bond project district plan is required for inclusion in the establishment of a STAR bond district under K.S.A. 12-17,165. The district plan is a preliminary plan that identifies proposed STAR bond project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

SECTION 2: DESCRIPTION OF SALES TAX AND REVENUE BOND INCOME

STAR bond financing allows the Kansas Department of Revenue to measure and capture the incremental increase in state and local sales tax revenue collected within an approved STAR bond district and remit a portion of said revenue to the city or county in which the STAR bond district is located, to pay the principal and interest on STAR bonds issued to finance certain eligible costs associated with an approved STAR bond project. Projects financed through STAR bond financing include major commercial entertainment and tourism developments that create a significant "increment" in state and local sales tax income. The increment is determined by subtracting the total amount of sales tax revenue collected within the boundaries of a STAR bond project district during the 12 months preceding the establishment of the STAR bond project district from the total sales tax revenue collected in the district in each 12 month period following the approval of the STAR bond project during the term of the STAR bond project. The portion of the sales tax increment paid to the City is net of a small administrative fee assessed by the Department of Revenue.

In Wichita, the one-cent local option sales tax is assessed by Sedgwick County and a major portion of the revenue is distributed by the County to the City of Wichita, based on population and other fiscal considerations. By City ordinance, 50% the local sales tax revenue received by the City is dedicated to paying for streets, roads and bridges and is pledged to the repayment of City bonds issued for that purpose. The other 50% is dedicated to property tax abatement, and only that portion of the local sales tax increment collected in the STAR bond project district can be used to pay the principal and interest on STAR bonds.

SECTION 3: BUILDINGS AND FACILITIES

The proposed STAR bond project district, whose boundaries are set forth in Exhibit "A" attached hereto, is an area that meets the criteria for designation as a "major commercial entertainment and tourism area" as defined by state law governing the establishment and financing of STAR bond project districts. Property located within a major commercial entertainment and tourism area is legally eligible for establishment of a STAR bond project district.

The general plan for the Bowllagio STAR Bond Project calls for development of a mixed-use entertainment district that will be anchored by the Bowllagio, a family entertainment center with bowling as the primary attraction, coupled with a restaurant and bar operation, state-of-the-art gaming attractions and a bowling training facility intended to attract competitive bowlers from far away. In addition to the Bowllagio, the development is anticipated to include hotels, restaurants and retail shops located on 35 acres of landscaped property, including streets, parking lots, sidewalks, fountains, drainage improvements and utility extensions.

SECTION 4: PROJECT AREAS AND ELIGIBLE PROJECT COSTS

It is anticipated that all property within district will be designated as the "project area" under the STAR Bond project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any funds to be financed with STAR bonds.

STAR bond financing may be used to pay for the purchase of real estate and site preparation including the demolition of structures and utility relocations, as well as on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas.

SECTION 5: CONCLUSION

After the establishment of the STAR bond project district, any projects to be funded with STAR bond financing will be presented to the City Council for approval through the adoption of a STAR Bond Project Plan. The Project Plan will identify the specific project area located within the established STAR bond project district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. The Project Plan must be reviewed by the Metropolitan Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the City Council. Following approval by the City Council, the Project Plan must be approved by the Kansas Secretary of Commerce. Only then can STAR bond proceeds be spent on the approved projects.

STAR bond financing does not impose any additional taxes on sales or on property located within the STAR bond project district.

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Approval of Economic Development Incentives (Cargill, Inc.) (District I)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Approve the incentive package.

Background: In early 2010, Cargill, Inc. approached the City of Wichita and the Greater Wichita Economic Development Coalition (GWEDC) with a request for incentives relative to a relocation opportunity for the Cargill Meat Solutions Research and Development operation. The existing R&D facility, located at 29th Street North and Mead in the North Industrial Corridor, does testing and innovation projects relating to Cargill's meat products for clients throughout the U.S. The facility houses a professional kitchen and employs sixty-four food research professionals and support staff. The existing facility is located in a former meat packing plant that is far larger than needed and does not offer a suitable setting for this type of activity. At the time, Cargill was looking at opportunities at other Cargill facilities throughout the country including Wichita. GWEDC worked with City and County staff to develop an incentive offer to secure the facility in downtown Wichita.

Analysis: Cargill has chosen a location in downtown Wichita at First and Wichita Street, near the national corporate headquarters for Cargill Meat Solutions at 151 North Main. This allows the R&D facility to become a more integral part of their main operation, provide an attractive showcase for clients, and also allows the downtown employees to participate in some of the food testing. The center will include laboratories focusing on food safety and quality research and development, new product development, packing innovations, and the testing of processing equipment.

Cargill has begun improvements on the first floor of the North Main facility to install a state-of-the-art test kitchen for testing of the products. The new R&D facility will be located at the corner of Wichita and First streets. The 70,000 square foot facility will allow Cargill to upgrade its customer experience and provide further employment in the downtown core. Cargill plans to invest approximately $16 million in construction and machinery and equipment. The existing sixty-four employees will relocate to the new downtown facility and Cargill plans to add ten new employees over the next five years. The average salary for the facility will be $73,400 per year.

The downtown center replaces a 210,000-square-foot building at 2901 North Mead, acquired by Cargill in 1978. Construction on the 70,000-square-foot facility will begin in July by contractor Arco National Construction Co. and architect GMA Design Group, both of St. Louis.

This facility also will serve as the primary facility for internal and external training needs. The conference center in this facility will host the training of at least thirty people per month. At least two-thirds of the people to be trained would be coming in from outside of Wichita.

Subject to Council approval, the City of Wichita offered to make alley and sidewalk improvements on the site totaling approximately $132,000. The City has also offered a 100% five-plus-five year tax abatement on the new facility. Cargill will be utilizing the Economic Development Exemption (EDX) program and final approval of the abatement will be brought to the City Council after the facility is completed. Sedgwick County has offered Cargill a forgivable loan of $40,000 to offset the costs of relocating the R&D facility to downtown Wichita. The State of Kansas has offered Cargill an incentive package that includes a forgivable loan, training grant assistance, enterprise zone tax credits and sales tax exemptions valued at $1,800,000. And the Kansas Bioscience Authority has offered Cargill a five-year $750,000 grant for the innovation provided in food science.

Financial Considerations: The costs of City-funded site improvements, estimated at approximately $132,000, will be paid from the Public Works Street Maintenance Fund. The fiscal impact of the EDX property tax abatement will be provided when the final approval is brought before the City Council.

The Wichita State University Center for Economic Development and Business Research has conducted a cost-benefit analysis of the fiscal impact of the project, taking into account the incentives offered. The study resulted in the follow ratios of benefits-to-costs:

City of Wichita	1.35 to one
City of Wichita General Fund	1.09 to one
Sedgwick County	1.31 to one
U.S.D. No. 259	1.00 to one
State of Kansas	10.36 to one

Legal Considerations: Implementation of the incentives will require further City Council action, including adoption of an ordinance authorizing the actual exemption of the new facility from ad valorem property taxes under EDX authority and adoption of a bonding resolution or ordinance to authorize funding and construction of the site improvements.

Goal Impact: Economic Vitality and Affordable Living. Providing incentives to Cargill encourages capital investment and job creation. The relocation also strengthens the employment base in the core area.

Recommendation/Action: It is recommended that the City Council approve the proposed incentive package for Cargill, Inc.

Attachments: None

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Wichita Downtown Development Corporation - Contract Extension

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendations: Approve the contract extension.

Background: On March 20, 2001, the City Council adopted an ordinance creating a Self-Supported Municipal Improvement District ("SSMID") in downtown Wichita. The ordinance authorizes the City Council, as the governing body of the SSMID, to levy an assessment on all taxable real property located within the District for the purpose of marketing, developing and improving the downtown area. On December 18, 2001, the City Council approved a contract with the Wichita Downtown Development Corporation ("WDDC") to provide services for the implementation of the SSMID-funded programs. The contract with WDDC (dated April 2, 2002) has a 10 year term, the same as the SSMID.

On March 18, 2008, after notice to the property owners in the District, the City Council amended the SSMID ordinance to extend the term of the District one year until the end of 2012 and thereafter automatically extend the term annually upon approval of the SSMID budget, unless the City Council affirmatively disapproves the extension. The rationale was to provide the WDDC and the SSMID Advisory Board with a five-year rolling budget horizon to plan future activities. Because of different notice requirements, however, the WDDC contract was not extended at that time.

Analysis: The proposed WDDC contract amendment would extend the term of the WDDC contract to December 31, 2014, and provide an automatic annual extension so that it has a rolling five-year term, concurrent with the SSMID term. The Council would have the option not to extend the term in any year. The amendment does not affect the right of the City under the current agreement to cancel the contract at any time for cause or by amendment of the SSMID ordinance. The WDDC contract amendment also provides the procedure for the WDDC to comply with new Kansas Open Records Act reporting requirements for not-for-profit entities receiving public funds.

Notice of the public hearing on the proposed contract amendment has been given by publication as required by law.

Financial Considerations: The proposed contract amendment does not change the current budget for the SSMID or the expenditures by the WDDC.

Goal Impact: Core Area and Neighborhoods, Quality of Life, Economic Vitality and Affordable Living, Safe and Secure neighborhoods, Efficient Infrastructure: Downtown revitalization is crucial to all aspects of community betterment.

Legal Considerations: Notice has been given in the manner provided by statute. The proposed contract has been approved as to form by the City Law Department.

Recommendation/Actions: It is recommended that the City Council close the public hearing, approve the contract amendment with the Wichita Downtown Development Corporation, and authorize the necessary signatures.

Attachment:
WDDC Contract Amendment

FIRST AMENDMENT TO THE AGREEMENT
BETWEEN THE CITY OF WICHITA, KANSAS AND
WICHITA DOWNTOWN DEVELOPMENT CORPORATION

THIS FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF WICHITA, KANSAS AND WICHITA DOWNTOWN DEVELOPMENT CORPORATION is made and entered into this _____ day of _____, 2010, by and between the City of Wichita, Kansas ("City") and the Wichita Downtown Development Corporation ("Corporation").

WITNESSETH THAT:

WHEREAS, the City, by Ordinance No. 44-895, effective March 24, 2001 (the "2001 Ordinance") established the Downtown Wichita Self Supported Municipal Improvement District ("SSMID") and the Advisory Board of the SSMID; and

WHEREAS, the City, by Ordinance No. 47-853, effective March 21, 2008 (the "2008 Ordinance") extended the term of the SSMID and the Advisory Board of the SSMID; and

WHEREAS, the City and the Corporation entered into an Agreement on April 2, 2002 pursuant to which the Corporation provides services to the City in connection with the operation and management of the SSMID and the SSMID Advisory Board, a copy of which is attached hereto and incorporated by reference herein (the "Agreement"); and

WHEREAS, the City and the Corporation desire to extend the term of the Agreement to be coterminous with the SSMID and the SSMID Advisory Board; and

WHEREAS, since the execution of the Agreement, the State of Kansas has adopted a revised Kansas Open Records Act ("KORA"). The City acknowledges that the Corporation has been in full compliance with its obligations under the revised KORA but the parties desire to explicitly incorporate compliance with KORA into the Agreement.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants and agreement provided herein, the parties hereto agree as follows:

1. AMENDMENT. This First Amendment amends the Agreement in the manner set forth herein. Except as otherwise explicitly set forth herein, the Agreement as originally executed remains in full force and effect without amendment or change.

2. TERM. The first sentence of Section 2 of the Agreement is deleted and will be replaced with the following sentences:

> Except as otherwise provided herein, the term of the Agreement shall terminate upon the expiration or termination of the Self Supported Municipal Improvement District and shall be coterminous with the SSMID. Pursuant to the 2008 Ordinance, the term of the SSMID has been extended beyond its original ten (10) year term. The current term of the SSMID will expire December

31, 2014 and by the 2008 Ordinance is extended annually upon approval of the budget for the SSMID for the next year. The term of the Agreement is extended to December 31, 2014. Annually, the term of the Agreement will be extended automatically, without any action of the City or the Corporation, one additional year when the SSMID budget is approved, so that the Agreement will always have a remaining life of five (5) years or more in the same manner as the SSMID. Provided, however, that the City may by appropriate and specific action of the City Council vote not to extend the term one additional year at the time of SSMID budget approval, in which event the term will not be extended that year, but will remain at the then current term until the next SSMID budget approval, at which time it will be automatically extended one additional year unless, by appropriate action of the City Council, the City elects not to extend the term in such year. Provided, however, that if the SSMID term is not extended, the Agreement will not be extended; and provided further that at the request of the Corporation, the Agreement will not be extended.

3. KORA. Annually, on or before June 1, the Corporation will file with the City a written financial report for the preceding calendar year, detailing the receipt of public funds and the expenditure of such funds, in a form and format as the City and Corporation may reasonably agree and in the absence of a specified form, in the same format as the SSMID budget. It is the intention of the parties that this filing shall serve to make such report an open public record and to fill the requirements of K.S.A. 45-240.

[Signatures are on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

By_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved As To Form:

_____
Gary E. Rebenstorf, Director of Law

WICHITA DOWNTOWN DEVELOPMENT CORPORATION

By_____
_____, Chairman

Agenda Item No. III-3

City of Wichita
City Council Meeting
June 15, 2010

Agenda Report No.

TO: Mayor and City Council

SUBJECT: Water and Sewer Rate Increases (All Districts)

INITIATED BY: Department of Water Utilities

AGENDA: New Business

Recommendation: Approve the Ordinances establishing Water Utility rate increases.

Background: In March 2010, the City Manager reported to the Mayor and City Council that estimated revenues from the Water Utilities would not be sufficient to provide adequate debt service coverage for the 2010 revenue bond issue. This shortfall was attributed to lower than anticipated residential and commercial consumption, higher than anticipated payments for the sewer main expansion program, and the improper structuring of the 2010 debt issue. Because of these difficulties, the City Manager announced his intention to seek a 15% rate increase in June 2010, initiate a third party review of the Aquifer Storage and Recovery (ASR) Project, make changes in the Utility management, and increase oversight by the Finance Department. The Mayor also announced the formation of a Blue Ribbon Committee to review the utilities situation and the HDR Report, and make recommendations to the City Council.

On April 13, 2010, the City of Wichita entered into a professional services agreement with HDR Engineering, Inc., Kansas City, MO., to conduct a third party review of the following components of the City's Integrated Local Water Supply Plan (ILWSP): future water demands, future water availability, the need for the ASR project, ASR project costs, a review of the Utilities pro forma, and financial recommendations. HDR's report was completed and submitted to the City Council in a workshop session on June 2, 2010.

Analysis: The following general conclusions were reached in the HDR Report.

A. Existing water supplies and our delivery system is adequate to meet average day demands, without conservation, until 2040.

B. Existing water supplies and the delivery system currently fall short of meeting maximum day demands during normal or drought conditions.

C. Improvements to the Cheney Reservoir Transmission main and the diagonal pipeline replacement in the Equus Beds well field will result in the ability to deliver more water to

the distribution system and will result in an adequate water supply for the maximum day demand in drought conditions (without conservation) until approximately 2027.

D. A lowering of the water level in the Equus Bed Aquifer has resulted in a greater certainty of salt water contamination in the well field from the Benton plume and Arkansas River. Increasing water levels through recharge will slow or possibly impede migration toward the well field.

E. The ASR project has a construction cost of $229 million. HDR's review of project cost shows that the current 30 MGD Phase II project can be divided into two parts: replacement and upgrades to existing infrastructure at $106 million, and recharge and recovery costs at $123 million.

F. The Phase II ASR project is currently designed to process 30 million gallons of water per day (MGD) when sufficient flows exist in the Little Arkansas River. Constructing this project, as proposed, would provide adequate water supplies (without conservation) to approximately 2045. Conservation efforts could extend the supply past 2050. A reduced capacity phased project (15 MGD) would provide adequate supplies until 2035. Constructing the 15 MGD ASR project would defer about $35 million in costs to later years.

Financial Considerations: A major component of the HDR study was to examine the needs of the Water Utility and determine the rate structure necessary to support those needs. In general terms, operations and maintenance costs, capital improvement program needs, and several ASR options were studied. The evaluation assumed a $184.7 million CIP (nonrelated to ASR), $241.1 million in capital costs for the sewer system, and the following ASR related options:

1a.	ASR – full Phases II and III	$ 381.7 million
1b.	ASR – full Phase II (30 MGD)	$ 275.0 million
2a.	ASR – 11 MGD downsized system	$ 115.0 million
3.	Improvements to Existing Delivery System	$ 114.0 million
4.	ASR – 15 MGD System	$ 190.0 million

ASR Options 1b, 4 and 5 are considered below. Details on other options can be found in the HDR report.

HDR, in conjunction with the City Finance Department, constructed financial pro formas for each option. A one-time contribution of $1.8 million from the City's Reserve Fund was used to offset the PILOT payment made by the Utility to the General Fund. The goal was to set rates to achieve a minimum debt service coverage (DSC) ratio of 1.20 in FY2010, and 1.25 in future years.

The results of the pro forma analysis indicate that the following rate increases (%) would be necessary to support the indicated option if all of the costs were funded through Utility revenue bonds:

Option 1b. 30 MGD ASR (revenue bond funded)

Years	2010	2011	2012	2013	2014	2015	2016	2017	2018
Water	**8.0%**	**19.0%**	**11.5%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**
Sewer	**10.0%**	**18.0%**	**4.0%**	**5.0%**	**6.5%**	**6.0%**	**5.0%**	**3.0%**	**3.0%**
Combined DSC	**1.20%**	**1.25%**	**1.25%**	**1.28%**	**1.28%**	**1.26%**	**1.26%**	**1.36%**	**1.38%**

Option 4. 15 MGD ASR (revenue bond funded)

Years	2010	2011	2012	2013	2014	2015	2016	2017	2018
Water	**7.5%**	**18.0%**	**7.5%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**
Sewer	**10.0%**	**18.0%**	**4.0%**	**5.0%**	**6.5%**	**6.0%**	**5.0%**	**3.0%**	**3.0%**
Combined DSC	**1.20%**	**1.25%**	**1.25%**	**1.31%**	**1.28%**	**1.25%**	**1.25%**	**1.35%**	**1.37%**

In addition to the above options considered in the HDR study, another option was developed that would fund $130 million of ASR program debt with G.O. bonds instead of revenue bonds. The following is the result of that change:

Option 5. 15 MGD ASR (G.O. debt funded)

Years	2010	2011	2012	2013	2014	2015	2016	2017	2018
Water	**7.5%**	**8.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**	**3.0%**
Sewer	**10.0%**	**8.0%**	**8.0%**	**8.0%**	**8.0%**	**7.0%**	**5.0%**	**3.0%**	**3.0%**
Combined DSC	**1.20%**	**1.30%**	**1.27%**	**1.35%**	**1.33%**	**1.29%**	**1.28%**	**1.38%**	**1.40%**

The tables below show the impact that these rate increases would have on the typical residential (7,000 gallons/month) and commercial (100,000 gallons/month) water bills.

<u>Option 1b. (Revenue Bond Funded)</u>
Residential rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$22.22	---	$18.47	---	**$40.69**	**---**	**---**
2010	$24.00	$1.78	$20.32	$1.85	**$44.32**	**$3.63**	**8.92%**
2011	$28.56	$4.56	$23.97	$3.65	**$52.53**	**$8.21**	**18.52%**
2012	$31.84	$3.28	$24.93	$0.96	**$56.77**	**$4.24**	**8.07%**

Commercial Rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$133.93	---	$220.46	---	**$354.39**	**---**	**---**
2010	$144.64	$10.71	$242.51	$22.05	**$387.15**	**$32.76**	**9.24%**
2011	$172.13	$27.49	$286.16	$43.65	**$458.29**	**$71.14**	**18.37%**
2012	$191.92	$19.79	$297.60	$11.44	**$489.52**	**$31.23**	**6.81%**

Option 4. (Revenue Bond Funded)

Residential Rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$22.22	---	$18.47	---	**$40.69**	**---**	**---**
2010	$23.89	$1.67	$20.32	$1.85	**$44.21**	**$3.52**	**8.65%**
2011	$28.19	$4.30	$23.97	$3.65	**$52.16**	**$7.95**	**18.00%**
2012	$30.30	$2.11	$24.93	$0.96	**$55.23**	**$3.07**	**5.89%**

Commercial Rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$133.93	---	$220.46	---	**$354.39**	**---**	**---**
2010	$143.97	$10.04	$242.51	$22.05	**$386.48**	**$32.09**	**9.06%**
2011	$169.89	$25.92	$286.16	$43.65	**$456.05**	**$69.57**	**18.00%**
2012	$182.63	$12.74	$297.60	$11.44	**$480.23**	**$24.18**	**5.30%**

Option 5. G.O. Debt Funded

Residential Rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$22.22	---	$18.47	---	**$40.69**	**---**	**---**
2010	$23.89	$1.67	$20.32	$1.85	**$44.21**	**$3.52**	**8.63%**
2011	$25.80	$1.91	$21.94	$1.62	**$47.74**	**$3.53**	**8.00%**
2012	$26.57	$0.77	$23.70	$1.76	**$50.27**	**$2.53**	**5.30%**

Commercial Rates:

	WATER		SEWER		TOTAL	CHANGE	
	Amount	**$ Change**	**Amount**	**$ Change**	**Amount**	**$ Change**	**% Increase**
Current	$133.93	---	$220.46	---	**$354.39**	**---**	**---**
2010	$143.97	$10.04	$242.51	$22.05	**$386.48**	**$32.09**	**9.06%**
2011	$155.49	$11.52	$261.91	$19.40	**$417.40**	**$30.92**	**8.00%**
2012	$160.16	$4.67	$282.86	$20.95	**$443.02**	**$25.62**	**6.14%**

The HDR Report also includes a discussion of financial Best Management Practices (BMPs) that should be utilized by the Utility. Finance staff will work with the Utility to review these recommendations and implement those that will work for Wichita.

Other Considerations: Subsequent to the completion of the HDR Report and its review at Council Workshop, the Blue Ribbon Committee met on June 3, 2010 to hear reports on the history of the ASR Project and the HDR Study. The Committee Members expressed unanimous support for option 1b, indicating this option provides the *highest return on the financial investment for a future water supply* for the Wichita region. Specifically, Committee members expressed support for this option for the following reasons:

1. The minimal financial savings presented in other options that reduce the capacity from 30 MGD to 15 MGD do not justify the significant water capacity reduction.
2. The ASR Project has been fully vetted at the 30 MGD capacity. The 15 MGD option provides minimal financial savings over the lifetime of the project and the proper research on the change in the project scope has not been evaluated. The minimal savings do not justify the potential risk to the project.
3. The reduction of the project from a 30 MGD to a 15 MGD capacity may impact the project's ability to control the salt water plume migration resulting in costly long-term implications to both Wichita water customers and irrigators in the region.
4. The permits for the ASR project have been evaluated and approved based on the current 30 MGD model. There is a potential that changes in the project's capacity could jeopardize current or future permits and other already approved processes.

If this option is selected, using $140 million in G.O. funds will result in the exact same rate and utility bill increases for the first three years as indicated for Option 5 above. Constructing the full 30 MGD ASR facility now would result in somewhat higher operation and maintenance costs for the Utility in the near future, but would better protect the Equus Beds from salt water intrusion.

Goal Impact: The adoption of these rate increases will enhance the quality of life for citizens by providing a sufficient long term water supply.

Legal Considerations: The Law Department has approved the Rate Ordinances as to form.

Recommendation/Action: Adopt either Option 1 b. or Option 5 with G.O. Debt Funding and the following utility rate increases:

	2010	2011
Water	7.5%	8.0%
Sewer	10.0%	8.0%

Attachments: Water Rate Ordinance and Sewer Rate Ordinance.

ORDINANCE NO.48-759

AN ORDINANCE AMENDING SECTION 17.12.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 17.12.090, of the Code of the City of Wichita is hereby amended to read as follows:

WATER RATES AND CHARGES. On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of water customers with metered, flat rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service sizes, shall be assessed to all customers who have service availability at any time during a billing period as shown below. An individual is deemed to have service available if the private water service system, at the individual's residence or business, has been connected to the City of Wichita's water system at any time during a billing period. The minimum charge is to be applied regardless of whether or not any water volume passed from the City to private water systems during a billing period. Water service connections deemed inactive by the Director of Water & Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 10.36
3/4 inch	10.41
1 inch	10.64
1 1/2 inch	10.94
2 inch	11.74

3 inch	17.81
4 inch	20.05
6 inch	25.28
8 inch	31.25
10 inch	35.00
12 inch	43.21

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 16.57
3/4 inch	16.66
1 inch	17.02
1 1/2 inch	17.50
2 inch	18.79
3 inch	28.49
4 inch	32.09
6 inch	40.44
8 inch	50.00
10 inch	55.99
12 inch	69.14
16 inch	181.99

B. FLAT RATE/UNMETERED MONTHLY CHARGES

	July 2010 & Beyond
	$ 16.64

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 3.18
3/4 inch	3.21
1 inch	3.34
1 1/2 inch	3.56
2 inch	4.11
3 inch	8.12
4 inch	9.62
6 inch	13.10

8 inch	17.06
10 inch	19.53
12 inch	25.01

OUTSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 5.07
3/4 inch	5.13
1 inch	5.34
1 1/2 inch	5.71
2 inch	6.59
3 inch	13.00
4 inch	15.39
6 inch	20.97
8 inch	27.30
10 inch	31.26
12 inch	40.02

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Wichita Water Utilities.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean of monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for the ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Utilities shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days) is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.32
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 5.02
Block 3: Metered Consumption Above 310% of AWC	**$** 7.55

OUTSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 2.12
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 8.04
Block 3: Metered Consumption Above 310% of AWC	**$** 12.08

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Utilities is empowered to negotiate and execute contracts with retail customers which provides for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contact rate. The Director of Utilities is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its

water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Utilities, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Utilities. If the Director of Utilities determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

(PRIOR YEAR'S RETAIL VOLUME CHARGE BLOCK 2 RATE - PRIOR YEAR'S RETAIL VOLUME CONSERVATION CONTRACT RATE) x ((PRIOR YEAR'S ANNUAL WATER USE/1,000) x (1 - (PRIOR YEAR'S ACTUAL ANNUAL GALLONS OF WATER SAVED / PRIOR YEAR'S PROJECTED ANNUAL GALLONS OF WATER SAVED)))

Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Utilities.

INSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 2.54

OUTSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 4.06

D. WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.42
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 7.35
Block 3: Metered Consumption Above 310% of AWC.	**$** 10.99

E. UNIFORM WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** 1.86

F. NON POTABLE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** .91

III. ASSOCIATION OF LAWN SERVICES

In all cases where practical and appropriate, lawn service accounts shall be associated with the primary service account at a particular service location. The individual consumption amounts for the primary service account and the lawn service accounts shall be added together and the total consumption for the billing period shall be allocated to the appropriate water volume charge rate blocks and volume charges calculated therefor. The consumption as recorded on billings rendered in the months of December, January, February and March for both the primary and lawn service accounts shall be used to calculate the average winter consumption used in apportioning water usage among the volume rate blocks whenever lawn service accounts

are associated with primary service accounts.

IV. LATE CHARGES

An amount equal to one and one-half percent of the unpaid balance will be added to all bills not paid within twenty-five (25) days of the date of issuance.

V. MISCELLANEOUS CHARGES

When termination of water service has been ordered by the department for any cause, the customer shall be charged the sum of thirteen ($13.00) dollars to cover costs of arranging such termination. In instances where the service is actually terminated and later reinstated, the customer shall be charged an additional thirteen ($13.00) dollars to cover costs of reinstating the service.

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

Where water service is turned on and shut off in a period of less than one billing period, the billing shall be computed as if service was rendered for an entire billing period. Any customer desiring to discontinue water service temporarily must make request therefor at the office of the department not less than two working days prior to the date on which the service is desired to be discontinued. After the effective date of such discontinuance, all charges for such water and water service shall cease for the period during which the service shall be shut off; provided, that the period of such discontinuance shall not be less than thirty days.

A fee of thirteen ($13.00) dollars shall be required for the disconnection of a lawn service when the customer of record requests disconnection without concurrently requesting disconnection of the associated service account at the service location. An additional fee of thirteen ($13.00) dollars shall be required for the reconnection of the lawn service at the same location.

Other charges and billing for special services, such as but not limited to administrative

fees, account origination fees, damages and/or vandalism to Utility infrastructure and appurtenances, etc., shall be determined by the Director of Utilities and subject to review and change at any time.

VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after July 1, 2010, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22nd day of June , 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 17.12.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 17.12.090, of the Code of the City of Wichita is hereby amended to read as follows:

WATER RATES AND CHARGES. On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of water customers with metered, flat rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service sizes, shall be assessed to all customers who have service availability at any time during a billing period as shown below. An individual is deemed to have service available if the private water service system, at the individual's residence or business, has been connected to the City of Wichita's water system at any time during a billing period. The minimum charge is to be applied regardless of whether or not any water volume passed from the City to private water systems during a billing period. Water service connections deemed inactive by the Director of Water & Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 10.36
3/4 inch	10.41
1 inch	10.64
1 1/2 inch	10.94
2 inch	11.74

3 inch	17.81
4 inch	20.05
6 inch	25.28
8 inch	31.25
10 inch	35.00
12 inch	43.21

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 16.57
3/4 inch	16.66
1 inch	17.02
1 1/2 inch	17.50
2 inch	18.79
3 inch	28.49
4 inch	32.09
6 inch	40.44
8 inch	50.00
10 inch	55.99
12 inch	69.14
16 inch	181.99

B. FLAT RATE/UNMETERED MONTHLY CHARGES

	July 2010 & Beyond
	$ 16.64

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 3.18
3/4 inch	3.21
1 inch	3.34
1 1/2 inch	3.56
2 inch	4.11
3 inch	8.12
4 inch	9.62
6 inch	13.10

8 inch	17.06
10 inch	19.53
12 inch	25.01

OUTSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 5.07
3/4 inch	5.13
1 inch	5.34
1 1/2 inch	5.71
2 inch	6.59
3 inch	13.00
4 inch	15.39
6 inch	20.97
8 inch	27.30
10 inch	31.26
12 inch	40.02

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Wichita Water Utilities.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean of monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for the ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Utilities shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days) is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.32
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 5.02
Block 3: Metered Consumption Above 310% of AWC	**$** 7.55

OUTSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 2.12
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 8.04
Block 3: Metered Consumption Above 310% of AWC	**$** 12.08

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Utilities is empowered to negotiate and execute contracts with retail customers which provides for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contact rate. The Director of Utilities is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its

water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Utilities, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Utilities. If the Director of Utilities determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

(PRIOR YEAR'S RETAIL VOLUME CHARGE BLOCK 2 RATE - PRIOR YEAR'S RETAIL VOLUME CONSERVATION CONTRACT RATE) x ((PRIOR YEAR'S ANNUAL WATER USE/1,000) x (1 - (PRIOR YEAR'S ACTUAL ANNUAL GALLONS OF WATER SAVED / PRIOR YEAR'S PROJECTED ANNUAL GALLONS OF WATER SAVED)))

Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Utilities.

INSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 2.54

OUTSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 4.06

D. WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.42
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 7.35
Block 3: Metered Consumption Above 310% of AWC.	**$** 10.99

E. UNIFORM WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** 1.86

F. NON POTABLE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** .91

III. ASSOCIATION OF LAWN SERVICES

In all cases where practical and appropriate, lawn service accounts shall be associated with the primary service account at a particular service location. The individual consumption amounts for the primary service account and the lawn service accounts shall be added together and the total consumption for the billing period shall be allocated to the appropriate water volume charge rate blocks and volume charges calculated therefor. The consumption as recorded on billings rendered in the months of December, January, February and March for both the primary and lawn service accounts shall be used to calculate the average winter consumption used in apportioning water usage among the volume rate blocks whenever lawn service accounts

are associated with primary service accounts.

IV. LATE CHARGES

An amount equal to one and one-half percent of the unpaid balance will be added to all bills not paid within twenty-five (25) days of the date of issuance.

V. MISCELLANEOUS CHARGES

When termination of water service has been ordered by the department for any cause, the customer shall be charged the sum of thirteen ($13.00) dollars to cover costs of arranging such termination. In instances where the service is actually terminated and later reinstated, the customer shall be charged an additional thirteen ($13.00) dollars to cover costs of reinstating the service.

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

Where water service is turned on and shut off in a period of less than one billing period, the billing shall be computed as if service was rendered for an entire billing period. Any customer desiring to discontinue water service temporarily must make request therefor at the office of the department not less than two working days prior to the date on which the service is desired to be discontinued. After the effective date of such discontinuance, all charges for such water and water service shall cease for the period during which the service shall be shut off; provided, that the period of such discontinuance shall not be less than thirty days.

A fee of thirteen ($13.00) dollars shall be required for the disconnection of a lawn service when the customer of record requests disconnection without concurrently requesting disconnection of the associated service account at the service location. An additional fee of thirteen ($13.00) dollars shall be required for the reconnection of the lawn service at the same location.

Other charges and billing for special services, such as but not limited to administrative

fees, account origination fees, damages and/or vandalism to Utility infrastructure and appurtenances, etc., shall be determined by the Director of Utilities and subject to review and change at any time.

VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after July 1, 2010, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this ___ day of _____, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO. 48-760

AN ORDINANCE AMENDING SECTION 17.12.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 17.12.090, of the Code of the City of Wichita is hereby amended to read as follows:

WATER RATES AND CHARGES. On and after January 1, 2011, the schedule of rates and charges as set forth below shall apply to all categories of water customers with metered, flat rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service sizes, shall be assessed to all customers who have service availability at any time during a billing period as shown below. An individual is deemed to have service available if the private water service system, at the individual's residence or business, has been connected to the City of Wichita's water system at any time during a billing period. The minimum charge is to be applied regardless of whether or not any water volume passed from the City to private water systems during a billing period. Water service connections deemed inactive by the Director of Water & Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	2011 & Beyond
5/8 inch	**$** 11.18
3/4 inch	11.25
1 inch	11.49
1 1/2 inch	11.82
2 inch	12.68

3 inch	19.23
4 inch	21.66
6 inch	27.30
8 inch	33.75
10 inch	37.80
12 inch	46.67

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

WATER METER SIZES	2011 & Beyond
5/8 inch	**$** 17.89
3/4 inch	17.99
1 inch	18.38
1 1/2 inch	18.90
2 inch	20.29
3 inch	30.77
4 inch	34.65
6 inch	43.68
8 inch	54.00
10 inch	60.47
12 inch	74.68
16 inch	196.54

B. FLAT RATE/UNMETERED MONTHLY CHARGES

	2011 & Beyond
	$ 17.97

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	2011 & Beyond
5/8 inch	**$** 3.43
3/4 inch	3.47
1 inch	3.60
1 1/2 inch	3.85
2 inch	4.44
3 inch	8.77
4 inch	10.39
6 inch	14.15

8 inch	18.43
10 inch	21.10
12 inch	27.01

OUTSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	2011 & Beyond
5/8 inch	**$** 5.48
3/4 inch	5.54
1 inch	5.76
1 1/2 inch	6.16
2 inch	7.12
3 inch	14.04
4 inch	16.62
6 inch	22.65
8 inch	29.49
10 inch	33.76
12 inch	43.22

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Wichita Water Utilities.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean of monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for the ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Utilities shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days) is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

	Rates Per 1,000 Gallons 2011 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.43
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 5.42
Block 3: Metered Consumption Above 310% of AWC	**$** 8.15

OUTSIDE CITY

	Rates Per 1,000 Gallons 2011 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 2.29
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 8.68
Block 3: Metered Consumption Above 310% of AWC	**$** 13.05

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Utilities is empowered to negotiate and execute contracts with retail customers which provides for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contact rate. The Director of Utilities is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its

water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Utilities, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Utilities. If the Director of Utilities determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

(PRIOR YEAR'S RETAIL VOLUME CHARGE BLOCK 2 RATE - PRIOR YEAR'S RETAIL VOLUME CONSERVATION CONTRACT RATE) x ((PRIOR YEAR'S ANNUAL WATER USE/1,000) x (1 - (PRIOR YEAR'S ACTUAL ANNUAL GALLONS OF WATER SAVED / PRIOR YEAR'S PROJECTED ANNUAL GALLONS OF WATER SAVED)))

Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Utilities.

INSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons 2011 & Beyond
Block 1: All Metered Consumption	**$** 2.74

OUTSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons 2011 & Beyond
Block 1: All Metered Consumption	**$** 4.39

D. WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons 2011 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.53
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 7.94
Block 3: Metered Consumption Above 310% of AWC.	**$** 11.87

E. UNIFORM WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons 2011 & Beyond
All Metered Consumption	**$** 2.01

F. NON POTABLE VOLUME RATES

	Rates Per 1,000 Gallons 2011 & Beyond
All Metered Consumption	**$** .99

III. ASSOCIATION OF LAWN SERVICES

In all cases where practical and appropriate, lawn service accounts shall be associated with the primary service account at a particular service location. The individual consumption amounts for the primary service account and the lawn service accounts shall be added together and the total consumption for the billing period shall be allocated to the appropriate water volume charge rate blocks and volume charges calculated therefor. The consumption as recorded on billings rendered in the months of December, January, February and March for both the primary and lawn service accounts shall be used to calculate the average winter consumption used in apportioning water usage among the volume rate blocks whenever lawn service accounts

are associated with primary service accounts.

IV. LATE CHARGES

An amount equal to one and one-half percent of the unpaid balance will be added to all bills not paid within twenty-five (25) days of the date of issuance.

V. MISCELLANEOUS CHARGES

When termination of water service has been ordered by the department for any cause, the customer shall be charged the sum of thirteen ($13.00) dollars to cover costs of arranging such termination. In instances where the service is actually terminated and later reinstated, the customer shall be charged an additional thirteen ($13.00) dollars to cover costs of reinstating the service.

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

Where water service is turned on and shut off in a period of less than one billing period, the billing shall be computed as if service was rendered for an entire billing period. Any customer desiring to discontinue water service temporarily must make request therefor at the office of the department not less than two working days prior to the date on which the service is desired to be discontinued. After the effective date of such discontinuance, all charges for such water and water service shall cease for the period during which the service shall be shut off; provided, that the period of such discontinuance shall not be less than thirty days.

A fee of thirteen ($13.00) dollars shall be required for the disconnection of a lawn service when the customer of record requests disconnection without concurrently requesting disconnection of the associated service account at the service location. An additional fee of thirteen ($13.00) dollars shall be required for the reconnection of the lawn service at the same location.

Other charges and billing for special services, such as but not limited to administrative

fees, account origination fees, damages and/or vandalism to Utility infrastructure and appurtenances, etc., shall be determined by the Director of Utilities and subject to review and change at any time.

VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after January 1, 2011, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22nd day of June, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 17.12.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 17.12.090, of the Code of the City of Wichita is hereby amended to read as follows:

WATER RATES AND CHARGES. On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of water customers with metered, flat rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service sizes, shall be assessed to all customers who have service availability at any time during a billing period as shown below. An individual is deemed to have service available if the private water service system, at the individual's residence or business, has been connected to the City of Wichita's water system at any time during a billing period. The minimum charge is to be applied regardless of whether or not any water volume passed from the City to private water systems during a billing period. Water service connections deemed inactive by the Director of Water & Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 10.36
3/4 inch	10.41
1 inch	10.64
1 1/2 inch	10.94
2 inch	11.74

3 inch	17.81
4 inch	20.05
6 inch	25.28
8 inch	31.25
10 inch	35.00
12 inch	43.21

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 16.57
3/4 inch	16.66
1 inch	17.02
1 1/2 inch	17.50
2 inch	18.79
3 inch	28.49
4 inch	32.09
6 inch	40.44
8 inch	50.00
10 inch	55.99
12 inch	69.14
16 inch	181.99

B. FLAT RATE/UNMETERED MONTHLY CHARGES

	July 2010 & Beyond
	$ 16.64

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 3.18
3/4 inch	3.21
1 inch	3.34
1 1/2 inch	3.56
2 inch	4.11
3 inch	8.12
4 inch	9.62
6 inch	13.10

8 inch	17.06
10 inch	19.53
12 inch	25.01

OUTSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES	July 2010 & Beyond
5/8 inch	**$** 5.07
3/4 inch	5.13
1 inch	5.34
1 1/2 inch	5.71
2 inch	6.59
3 inch	13.00
4 inch	15.39
6 inch	20.97
8 inch	27.30
10 inch	31.26
12 inch	40.02

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Wichita Water Utilities.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean of monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for the ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Utilities shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days) is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.32
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 5.02
Block 3: Metered Consumption Above 310% of AWC	**$** 7.55

OUTSIDE CITY

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 2.12
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 8.04
Block 3: Metered Consumption Above 310% of AWC	**$** 12.08

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Utilities is empowered to negotiate and execute contracts with retail customers which provides for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contact rate. The Director of Utilities is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its

water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Utilities, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Utilities. If the Director of Utilities determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

(PRIOR YEAR'S RETAIL VOLUME CHARGE BLOCK 2 RATE - PRIOR YEAR'S RETAIL VOLUME CONSERVATION CONTRACT RATE) x ((PRIOR YEAR'S ANNUAL WATER USE/1,000) x (1 - (PRIOR YEAR'S ACTUAL ANNUAL GALLONS OF WATER SAVED / PRIOR YEAR'S PROJECTED ANNUAL GALLONS OF WATER SAVED)))

Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Utilities.

INSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 2.54

OUTSIDE CITY CONSERVATION CONTRACT RATE

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: All Metered Consumption	**$** 4.06

D. WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
Block 1: Metered Consumption Through 110% of AWC	**$** 1.42
Block 2: Metered Consumption Between 111% and 310% of AWC and from Fire Services	**$** 7.35
Block 3: Metered Consumption Above 310% of AWC.	**$** 10.99

E. UNIFORM WHOLESALE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** 1.86

F. NON POTABLE VOLUME RATES

	Rates Per 1,000 Gallons July 2010 & Beyond
All Metered Consumption	**$** .91

III. ASSOCIATION OF LAWN SERVICES

In all cases where practical and appropriate, lawn service accounts shall be associated with the primary service account at a particular service location. The individual consumption amounts for the primary service account and the lawn service accounts shall be added together and the total consumption for the billing period shall be allocated to the appropriate water volume charge rate blocks and volume charges calculated therefor. The consumption as recorded on billings rendered in the months of December, January, February and March for both the primary and lawn service accounts shall be used to calculate the average winter consumption used in apportioning water usage among the volume rate blocks whenever lawn service accounts

are associated with primary service accounts.

IV. LATE CHARGES

An amount equal to one and one-half percent of the unpaid balance will be added to all bills not paid within twenty-five (25) days of the date of issuance.

V. MISCELLANEOUS CHARGES

When termination of water service has been ordered by the department for any cause, the customer shall be charged the sum of thirteen ($13.00) dollars to cover costs of arranging such termination. In instances where the service is actually terminated and later reinstated, the customer shall be charged an additional thirteen ($13.00) dollars to cover costs of reinstating the service.

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

Where water service is turned on and shut off in a period of less than one billing period, the billing shall be computed as if service was rendered for an entire billing period. Any customer desiring to discontinue water service temporarily must make request therefor at the office of the department not less than two working days prior to the date on which the service is desired to be discontinued. After the effective date of such discontinuance, all charges for such water and water service shall cease for the period during which the service shall be shut off; provided, that the period of such discontinuance shall not be less than thirty days.

A fee of thirteen ($13.00) dollars shall be required for the disconnection of a lawn service when the customer of record requests disconnection without concurrently requesting disconnection of the associated service account at the service location. An additional fee of thirteen ($13.00) dollars shall be required for the reconnection of the lawn service at the same location.

Other charges and billing for special services, such as but not limited to administrative

fees, account origination fees, damages and/or vandalism to Utility infrastructure and appurtenances, etc., shall be determined by the Director of Utilities and subject to review and change at any time.

VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after July 1, 2010, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this ___ day of _____, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO. 48-761

AN ORDINANCE AMENDING SECTION 16.14.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE SCHEDULE OF RATES FOR USERS OF THE SANITARY SEWER SYSTEM, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 16.14.040 of the Code of the City of Wichita is amended to read as follows:

Schedule of Use Charges: Each user of the sewerage system of the City shall pay, for the use of such system, sewer charges at no less than monthly intervals based where possible upon the consumption of water by such user as recorded by the water meter or sewer meter serving the premises according to the classifications and schedule set forth in this section.

Where any commercial or industrial premises are connected with the City's sewerage system but are not served by the City's water utility system, the owner or occupant of such premises shall, at their own expense, install and maintain on such premises a water meter or meters of a type and at a location acceptable to the Director of Utilities of the City, which shall measure all water received on said premises from all sources, and the sewer services charge of said premises as prescribed in this section shall be based upon such meter recording. The City shall install equipment to automate the reading of said meters. The City shall charge a one time installation fee based upon meter size for the purpose of administrative and replacement costs. A sewage meter, as set forth in the following sub-section of this section, may be substituted for the water meter requirement.

SEWER SERVICE VOLUME BASE:

If a commercial or industrial user desires to establish eligibility for a sewer service volume base of less than one hundred percent (100%) of water consumption, said user must submit an application in writing to the Wichita Water Utility. Upon approval the customer shall authorize the City to install the following at the Customer's expense:

(a) A sewage meter acceptable to the Director of Utilities to measure the volume of liquid actually discharged into the sewerage system from their premises. The applicant shall pay for all meters and equipment needed to automate the reading process at the time of the approval of the application and prior to installation. Further, at the time that final payment is rendered, an as-built schematic showing the actual location of the meter shall be provided to System Planning and Development. The customer being served by the meter shall pay for the installation, maintenance, calibration and replacement of said equipment. Sewer meter purchases must be approved by Water Utilities' staff and must be capable of being retrofitted with AMR technology. Customer Service shall be responsible for collection of all fees in relation to the application process. If a meter is found to be irreparable, the cost or meter replacement and installation shall be borne by the customer. Sewer meters are required to be calibrated annually in order to continue to

receive the volume based credit, Calibration must be provided through a recognized testing agency and certification of calibration must be provided to the Utilities upon completion. Calibration records shall be maintained by the City for a period of five years. No meter shall be installed on wastewater discharged until approval has been obtained from the Director of Utilities or their duly authorized representative. Tampering with, damaging, or removing meters without written permission from the Director of Utilities or their duly authorized representative is prohibited. In the event a sewage meter is installed, the rate schedule as set forth in this chapter shall be applied to the volume of sewage entering the sanitary sewer as measured by the meter. In the event of a meter malfunction, the customer shall be responsible for repairs. In the event that the metered amount of water consumption is less than the amount of discharge, Customer Service staff will verify that the water meter is registering flow accurately. If the water meter appears to be operating correctly, the customer will be notified and corrective action by the customer must be taken before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services will be based on metered water consumption. In the event that that metered water consumption begins to increase over metered discharge or if the only metered service is sewer and metered waste drops more than ten percent, Customer Service staff will verify that the water meter is registering flow accurately and/or that the sewer meter is registering flow. If the water meter appears to be operating correctly and the sewer meter is registering flow, the customer will be notified and corrective action by the customer will be required before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services for those accounts with metered water service will be based on 125% of average metered water consumption. For those accounts that are metered sewer only accounts, bills will be estimated based on 125% of the average of the prior twelve months metered discharge.

(b) In lieu of sewage meter(s), the user may request installation of auxiliary water meter(s) to measure the portion of water consumed which is diverted from entering the sanitary sewer. In the event an auxiliary water meter is installed, the volume of water metered by such meter(s) shall be deducted from the total volume of water consumed before the sewer service charge rate schedule is applied. Customers receiving credits through the use of **water** meters used for cooling towers, production credit, groundwater remediation and well water are responsible for the maintenance and calibration of the said meters. If a credit is to be applied to the customer's account, the customer must have the meter tested and calibrated every two years by Wichita Water Utilities. The cost of the test will be borne by the customer at the current rate for meter testing. Further, the customer will be responsible for the removal and reinstallment of the meter once testing has been completed. The City may install meters and charge the customer for the meter, installation fees, and a monthly fee based on the size of the meter.

No credits for sewer use shall be given until the type and location of meters installed have been approved by the Director of Utilities or their duly authorized representative.

Sewer volume credits established in accordance with the provisions of this Section for commercial and industrial users shall be prospective only.

EXTRA STRENGTH CHARGE:

Sewage discharged to the sanitary sewer system from each industrial or commercial user shall be subject to an extra strength charge when the biochemical oxygen demand (BOD) concentration exceeds two hundred fifty milligrams per liter, the suspended solids (SS) exceeds a concentration of three hundred milligrams per liter, or the oil and grease concentration exceeds one hundred milligrams per liter, as determined by Environmental Protection Agency Methodology stipulated in 40 CFR Part 136 analysis procedures. Sample collection methodology will be as specified by the Director of Utilities. Extra strength charges shall be calculated according to the formula:

S = V (0.00832) (X(BOD-250) + Y(SS-300) + Z(O&G-100)

Where:

S = Extra strength charge in dollars

V = Sewage volume in thousands of gallons

0.00832 = Conversion factor for thousands of gallons to million pounds

X = Applicable unit charge for BOD in dollars per pound from the schedule below

BOD = BOD strength index in parts per million by weight or mg/l

250 = Allowable BOD strength under normal volume charges in parts per million by weight or mg/l

Y = Applicable unit charge for suspended solids in dollars per pound from the schedule below

SS = Suspended solids strength index in parts per million by weight or mg/l

300 = Allowable suspended solids strength under normal volume charges in parts per million by weight or mg/l

Z = Applicable unit charge for oil and grease in dollars per pound from the schedule below

O&G = Oil and grease index in parts per million by weight or mg/l

100 = Allowable oil and grease under normal volume charges in parts per million by weight or mg/l

EXTRA STRENGTH UNIT CHARGES ESTABLISHED AS SHOWN IN SCHEDULE BELOW:

Inside City	Charge Per Pound July 2010 & Beyond
BOD	$0.1506
Suspended Solids	0.1003
Grease	1.9550
Outside City	
BOD	$0.2410
Suspended Solids	0.1604
Grease	3.1280

TOXIC POLLUTANT CHARGE:

Discharging of any toxic pollutants is prohibited under City Code Section 17.20.060. If any such waters or wastes enter into the municipal sewer system which cause an increase in the cost of managing the effluent or the sludge from the City's treatment plants and/or collection system, the discharger shall pay for the increased costs, and will be subject to the penalties ascribed in Chapter 17.20.

WASTEWATER ANALYSIS:

Samples and measurements will be taken by the City, as required by the Director of Utilities or their authorized representative. The strength of the sewage discharge by the industrial or commercial user will be determined by the analyses of said samples.

The user, at their expense, may be required at the sole discretion of the Director of Utilities to provide monitoring and flow measurement facilities which coincide at the point at which effluent limits apply. Sampling locations must be safe, convenient, and accessible to the industrial user and Wichita Water Utilities personnel.

If any industrial or commercial user chooses not to accept the analytical determination made by the City for a billing period, such user shall, prior to the date on which payment of the charges for such billing is due, notify the Director of Utilities in writing and, at their sole expense, employ an independent laboratory which is certified by the Kansas Department of Health and Environment and acceptable to the Director of Utilities, to conduct sampling and analysis of their sewage.

The time period, location, and method for the collection of the samples shall be designated by the City. The City and the independent laboratory shall both preside over the collection of the samples and shall equally divide the samples so that duplicate analysis may be performed.

If results of the analysis of the sewage sample made by both the City and the independent laboratory are not comparable, the Director of Utilities may appoint a second independent laboratory certified by the Kansas Department of Health and Environment to analyze the sewage. The sampling procedures used will be the same as those outlined above. The results of these analyses, together with the previous results, shall be used to determine the actual extra strength charges for the subject billing period. The fee for the second independent laboratory analyses shall be paid for by the user.

MONITORING CHARGE:

When regulations, Federal, State or City, require monitoring of the waste from an industry, that industry shall pay a monitoring charge.

The monitoring charge shall consist of all costs for personnel, material and equipment used to collect and analyze samples from the user's wastewater. The exact charge shall be based on actual costs and shall be determined by the Director of Utilities.

REVIEW OF USER CHARGE RATE STRUCTURE:

The user charge rate schedule of the City shall be reviewed and adjusted at least biennially to:

(a) Maintain the proportional distribution of operation, maintenance and replacement costs among user classes.

(b) Provide adequate revenues to cover operation, maintenance and replacement and debt service costs.

SEWER RATES AND CHARGES

On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of sewer customers.

Inside City Rates

A. Base Service Charges
Monthly charges based on water meter size

Size	July 2010 & Beyond
5/8 inch	$ 4.75
3/4 inch	5.20
1 inch	6.58
1 1/2 inch	8.54
2 inch	13.71
3 inch	52.03
4 inch	66.18
6 inch	99.32
8 inch	137.12
10 inch	160.79
12 inch	212.81

B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons July 2010 & Beyond
$2.29

Outside City Rate

A. Base Service Charges
Monthly charges based on water meter size

Size	July 2010 & Beyond
5/8 inch	$7.59
3/4 inch	8.32
1 inch	10.54
1 1/2 inch	13.66
2 inch	21.93
3 inch	83.25
4 inch	105.89
6 inch	158.90
8 inch	219.40
10 inch	257.26
12 inch	340.49

B. Volume Charges (per 1,000 gallons of metered water consumption)

	Rate/thousand gallons July 2010 & Beyond
	$3.66

C. Flat Rate Charges

Inside City

Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$20.69

Outside City

Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$33.10

D. WHOLESALE RATES

Monthly, per 1,000 gallons	$1.67

All users subject to sewer charges shall be subject to the provisions of this chapter.

GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY: Government military facilities located outside the city of Wichita shall be charged inside city rates for sewer service.

SECTION 2. The original of Section 16.14.040 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after July 1, 2010, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22nd day of June, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 16.14.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE SCHEDULE OF RATES FOR USERS OF THE SANITARY SEWER SYSTEM, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

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Where any commercial or industrial premises are connected with the City's sewerage system but are not served by the City's water utility system, the owner or occupant of such premises shall, at their own expense, install and maintain on such premises a water meter or meters of a type and at a location acceptable to the Director of Utilities of the City, which shall measure all water received on said premises from all sources, and the sewer services charge of said premises as prescribed in this section shall be based upon such meter recording. The City shall install equipment to automate the reading of said meters. The City shall charge a one time installation fee based upon meter size for the purpose of administrative and replacement costs. A sewage meter, as set forth in the following sub-section of this section, may be substituted for the water meter requirement.

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(a) A sewage meter acceptable to the Director of Utilities to measure the volume of liquid actually discharged into the sewerage system from their premises. The applicant shall pay for all meters and equipment needed to automate the reading process at the time of the approval of the application and prior to installation. Further, at the time that final payment is rendered, an as-built schematic showing the actual location of the meter shall be provided to System Planning and Development. The customer being served by the meter shall pay for the installation, maintenance, calibration and replacement of said equipment. Sewer meter purchases must be approved by Water Utilities’ staff and must be capable of being retrofitted with AMR technology. Customer Service shall be responsible for collection of all fees in relation to the application process. If a meter is found to be irreparable, the cost or meter replacement and installation shall be borne by the customer. Sewer meters are required to be calibrated annually in order to continue to receive the volume based credit, Calibration must be provided through a recognized testing agency and

certification of calibration must be provided to the Utilities upon completion. Calibration records shall be maintained by the City for a period of five years. No meter shall be installed on wastewater discharged until approval has been obtained from the Director of Utilities or their duly authorized representative. Tampering with, damaging, or removing meters without written permission from the Director of Utilities or their duly authorized representative is prohibited. In the event a sewage meter is installed, the rate schedule as set forth in this chapter shall be applied to the volume of sewage entering the sanitary sewer as measured by the meter. In the event of a meter malfunction, the customer shall be responsible for repairs. In the event that the metered amount of water consumption is less than the amount of discharge, Customer Service staff will verify that the water meter is registering flow accurately. If the water meter appears to be operating correctly, the customer will be notified and corrective action by the customer must be taken before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services will be based on metered water consumption. In the event that that metered water consumption begins to increase over metered discharge or if the only metered service is sewer and metered waste drops more than ten percent, Customer Service staff will verify that the water meter is registering flow accurately and/or that the sewer meter is registering flow. If the water meter appears to be operating correctly and the sewer meter is registering flow, the customer will be notified and corrective action by the customer will be required before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services for those accounts with metered water service will be based on 125% of average metered water consumption. For those accounts that are metered sewer only accounts, bills will be estimated based on 125% of the average of the prior twelve months metered discharge.

(b) In lieu of sewage meter(s), the user may request installation of auxiliary water meter(s) to measure the portion of water consumed which is diverted from entering the sanitary sewer. In the event an auxiliary water meter is installed, the volume of water metered by such meter(s) shall be deducted from the total volume of water consumed before the sewer service charge rate schedule is applied. Customers receiving credits through the use of **water** meters used for cooling towers, production credit, groundwater remediation and well water are responsible for the maintenance and calibration of the said meters. If a credit is to be applied to the customer's account, the customer must have the meter tested and calibrated every two years by Wichita Water Utilities. The cost of the test will be borne by the customer at the current rate for meter testing. Further, the customer will be responsible for the removal and reinstallment of the meter once testing has been completed. The City may install meters and charge the customer for the meter, installation fees, and a monthly fee based on the size of the meter.

No credits for sewer use shall be given until the type and location of meters installed have been approved by the Director of Utilities or their duly authorized representative.

Sewer volume credits established in accordance with the provisions of this Section for commercial and industrial users shall be prospective only.

EXTRA STRENGTH CHARGE:

Sewage discharged to the sanitary sewer system from each industrial or commercial user shall be subject to an extra strength charge when the biochemical oxygen demand (BOD) concentration exceeds two hundred fifty milligrams per liter, the suspended solids (SS) exceeds a concentration of three hundred milligrams per liter, or the oil and grease concentration exceeds one hundred milligrams per liter, as determined by Environmental Protection Agency Methodology stipulated in 40 CFR Part 136 analysis procedures. Sample collection methodology will be as specified by the Director of Utilities. Extra strength charges shall be calculated according to the formula:

S = V (0.00832) (X(BOD-250) + Y(SS-300) + Z(O&G-100)

Where:

S = Extra strength charge in dollars

V = Sewage volume in thousands of gallons

0.00832 = Conversion factor for thousands of gallons to million pounds

X = Applicable unit charge for BOD in dollars per pound from the schedule below

BOD = BOD strength index in parts per million by weight or mg/l

250 = Allowable BOD strength under normal volume charges in parts per million by weight or mg/l

Y = Applicable unit charge for suspended solids in dollars per pound from the schedule below

SS = Suspended solids strength index in parts per million by weight or mg/l

300 = Allowable suspended solids strength under normal volume charges in parts per million by weight or mg/l

Z = Applicable unit charge for oil and grease in dollars per pound from the schedule below

O&G = Oil and grease index in parts per million by weight or mg/l

100 = Allowable oil and grease under normal volume charges in parts per million by weight or mg/l

EXTRA STRENGTH UNIT CHARGES ESTABLISHED AS SHOWN IN SCHEDULE BELOW:

Inside City July 2010 & Beyond	Charge Per Pound
BOD	$0.1506
Suspended Solids	0.1003
Grease	1.9550
Outside City	
BOD	$0.2410
Suspended Solids	0.1604
Grease	3.1280

TOXIC POLLUTANT CHARGE:

Discharging of any toxic pollutants is prohibited under City Code Section 17.20.060. If any such waters or wastes enter into the municipal sewer system which cause an increase in the cost of managing the effluent or the sludge from the City's treatment plants and/or collection system, the discharger shall pay for the increased costs, and will be subject to the penalties ascribed in Chapter 17.20.

WASTEWATER ANALYSIS:

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The user, at their expense, may be required at the sole discretion of the Director of Utilities to provide monitoring and flow measurement facilities which coincide at the point at which effluent limits apply. Sampling locations must be safe, convenient, and accessible to the industrial user and Wichita Water Utilities personnel.

If any industrial or commercial user chooses not to accept the analytical determination made by the City for a billing period, such user shall, prior to the date on which payment of the charges for such billing is due, notify the Director of Utilities in writing and, at their sole expense, employ an independent laboratory which is certified by the Kansas Department of Health and Environment and acceptable to the Director of Utilities, to conduct sampling and analysis of their sewage.

The time period, location, and method for the collection of the samples shall be designated by the City. The City and the independent laboratory shall both preside over the collection of the samples and shall equally divide the samples so that duplicate analysis may be performed.

If results of the analysis of the sewage sample made by both the City and the independent laboratory are not comparable, the Director of Utilities may appoint a second independent laboratory certified by the Kansas Department of Health and Environment to analyze the sewage. The sampling procedures used will be the same as those outlined above. The results of these analyses, together with the previous results, shall be used to determine the actual extra strength charges for the subject billing period. The fee for the second independent laboratory analyses shall be paid for by the user.

MONITORING CHARGE:

When regulations, Federal, State or City, require monitoring of the waste from an industry, that industry shall pay a monitoring charge.

The monitoring charge shall consist of all costs for personnel, material and equipment used to collect and analyze samples from the user's wastewater. The exact charge shall be based on actual costs and shall be determined by the Director of Utilities.

REVIEW OF USER CHARGE RATE STRUCTURE:

The user charge rate schedule of the City shall be reviewed and adjusted at least biennially to:

(a) Maintain the proportional distribution of operation, maintenance and replacement costs among user classes.

(b) Provide adequate revenues to cover operation, maintenance and replacement and debt service costs.

SEWER RATES AND CHARGES

On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of sewer customers.

Inside City Rates

A. Base Service Charges
Monthly charges based on water meter size

Size	July 2010 & Beyond
5/8 inch	$ 4.75
3/4 inch	5.20
1 inch	6.58
1 1/2 inch	8.54
2 inch	13.71
3 inch	52.03
4 inch	66.18
6 inch	99.32
8 inch	137.12
10 inch	160.79
12 inch	212.81

B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons July 2010 & Beyond
$2.29

Outside City Rate

A. Base Service Charges
Monthly charges based on water meter size

Size	July 2010 & Beyond
5/8 inch	$7.59
3/4 inch	8.32
1 inch	10.54
1 1/2 inch	13.66
2 inch	21.93
3 inch	83.25
4 inch	105.89
6 inch	158.90
8 inch	219.40
10 inch	257.26
12 inch	340.49

B. Volume Charges (per 1,000 gallons of metered water consumption)

	Rate/thousand gallons July 2010 & Beyond
	$3.66

C. Flat Rate Charges

Inside City

Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$20.69

Outside City

Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$33.10

D. WHOLESALE RATES

Monthly, per 1,000 gallons	$1.67

All users subject to sewer charges shall be subject to the provisions of this chapter.

GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY: Government military facilities located outside the city of Wichita shall be charged inside city rates for sewer service.

SECTION 2. The original of Section 16.14.040 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after July 1, 2010, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf,
Director of Law

ORDINANCE NO. 48-762

AN ORDINANCE AMENDING SECTION 16.14.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE SCHEDULE OF RATES FOR USERS OF THE SANITARY SEWER SYSTEM, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 16.14.040 of the Code of the City of Wichita is amended to read as follows:

Schedule of Use Charges: Each user of the sewerage system of the City shall pay, for the use of such system, sewer charges at no less than monthly intervals based where possible upon the consumption of water by such user as recorded by the water meter or sewer meter serving the premises according to the classifications and schedule set forth in this section.

Where any commercial or industrial premises are connected with the City's sewerage system but are not served by the City's water utility system, the owner or occupant of such premises shall, at their own expense, install and maintain on such premises a water meter or meters of a type and at a location acceptable to the Director of Utilities of the City, which shall measure all water received on said premises from all sources, and the sewer services charge of said premises as prescribed in this section shall be based upon such meter recording. The City shall install equipment to automate the reading of said meters. The City shall charge a one time installation fee based upon meter size for the purpose of administrative and replacement costs. A sewage meter, as set forth in the following sub-section of this section, may be substituted for the water meter requirement.

SEWER SERVICE VOLUME BASE:

If a commercial or industrial user desires to establish eligibility for a sewer service volume base of less than one hundred percent (100%) of water consumption, said user must submit an application in writing to the Wichita Water Utility. Upon approval the customer shall authorize the City to install the following at the Customer's expense:

(a) A sewage meter acceptable to the Director of Utilities to measure the volume of liquid actually discharged into the sewerage system from their premises. The applicant shall pay for all meters and equipment needed to automate the reading process at the time of the approval of the application and prior to installation. Further, at the time that final payment is rendered, an as-built schematic showing the actual location of the meter shall be provided to System Planning and Development. The customer being served by the meter shall pay for the installation, maintenance, calibration and replacement of said equipment. Sewer meter purchases must be approved by Water Utilities' staff and must be capable of being retrofitted with AMR technology. Customer Service shall be responsible for collection of all fees in relation to the application process. If a meter is found to be irreparable, the cost or meter replacement and installation shall be borne by the customer. Sewer meters are required to be calibrated annually in order to receive the

volume based credit. Calibration must be provided through a recognized testing agency and certification of calibration must be provided to the Utilities upon completion. Calibration records shall be maintained by the City for a period of five years. No meter shall be installed on wastewater discharged until approval has been obtained from the Director of Utilities or their duly authorized representative. Tampering with, damaging, or removing meters without written permission from the Director of Utilities or their duly authorized representative is prohibited. In the event a sewage meter is installed, the rate schedule as set forth in this chapter shall be applied to the volume of sewage entering the sanitary sewer as measured by the meter. In the event of a meter malfunction, the customer shall be responsible for repairs. In the event that the metered amount of water consumption is less than the amount of discharge, Customer Service staff will verify that the water meter is registering flow accurately. If the water meter appears to be operating correctly, the customer will be notified and corrective action by the customer must be taken before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services will be based on metered water consumption. In the event that that metered water consumption begins to increase over metered discharge or if the only metered service is sewer and metered waste drops more than ten percent, Customer Service staff will verify that the water meter is registering flow accurately and/or that the sewer meter is registering flow. If the water meter appears to be operating correctly and the sewer meter is registering flow, the customer will be notified and corrective action by the customer will be required before an adjustment or credit for discharge is given. Until such time as the meter is either repaired or replaced by the customer, billing for sewer services for those accounts with metered water service will be based on 125% of average metered water consumption. For those accounts that are metered sewer only accounts, bills will be estimated based on 125% of the average of the prior twelve months metered discharge.

(b) In lieu of sewage meter(s), the user may request installation of auxiliary water meter(s) to measure the portion of water consumed which is diverted from entering the sanitary sewer. In the event an auxiliary water meter is installed, the volume of water metered by such meter(s) shall be deducted from the total volume of water consumed before the sewer service charge rate schedule is applied. Customers receiving credits through the use of **water** meters used for cooling towers, production credit, groundwater remediation and well water are responsible for the maintenance and calibration of the said meters. If a credit is to be applied to the customer's account, the customer must have the meter tested and calibrated every two years by Wichita Water Utilities. The cost of the test will be borne by the customer at the current rate for meter testing. Further, the customer will be responsible for the removal and reinstallment of the meter once testing has been completed. The City may install meters and charge the customer for the meter, installation fees, and a monthly fee based on the size of the meter.

No credits for sewer use shall be given until the type and location of meters installed have been approved by the Director of Utilities or their duly authorized representative.

Sewer volume credits established in accordance with the provisions of this Section for commercial and industrial users shall be prospective only.

EXTRA STRENGTH CHARGE:

Sewage discharged to the sanitary sewer system from each industrial or commercial user shall be subject to an extra strength charge when the biochemical oxygen demand (BOD) concentration exceeds two hundred fifty milligrams per liter, the suspended solids (SS) exceeds a concentration of three hundred milligrams per liter, or the oil and grease concentration exceeds one hundred milligrams per liter, as determined by Environmental Protection Agency Methodology stipulated in 40 CFR Part 136 analysis procedures. Sample collection methodology will be as specified by the Director of Utilities. Extra strength charges shall be calculated according to the formula:

S = V (0.00832) (X(BOD-250) + Y(SS-300) + Z(O&G-100)

Where:

S = Extra strength charge in dollars

V = Sewage volume in thousands of gallons

0.00832 = Conversion factor for thousands of gallons to million pounds

X = Applicable unit charge for BOD in dollars per pound from the schedule below

BOD = BOD strength index in parts per million by weight or mg/l

250 = Allowable BOD strength under normal volume charges in parts per million by weight or mg/l

Y = Applicable unit charge for suspended solids in dollars per pound from the schedule below

SS = Suspended solids strength index in parts per million by weight or mg/l

300 = Allowable suspended solids strength under normal volume charges in parts per million by weight or mg/l

Z = Applicable unit charge for oil and grease in dollars per pound from the schedule below

O&G = Oil and grease index in parts per million by weight or mg/l

100 = Allowable oil and grease under normal volume charges in parts per million by weight or mg/l

EXTRA STRENGTH UNIT CHARGES ESTABLISHED AS SHOWN IN SCHEDULE BELOW:

Inside City	Charge Per Pound 2011 & Beyond
BOD	$0.1627
Suspended Solids	0.1083
Grease	2.1113
Outside City	
BOD	$0.2603
Suspended Solids	0.1733
Grease	3.3782

TOXIC POLLUTANT CHARGE:

Discharging of any toxic pollutants is prohibited under City Code Section 17.20.060. If any such waters or wastes enter into the municipal sewer system which cause an increase in the cost of managing the effluent or the sludge from the City's treatment plants and/or collection system, the discharger shall pay for the increased costs, and will be subject to the penalties ascribed in Chapter 17.20.

WASTEWATER ANALYSIS:

Samples and measurements will be taken by the City, as required by the Director of Utilities or their authorized representative. The strength of the sewage discharge by the industrial or commercial user will be determined by the analyses of said samples.

The user, at their expense, may be required at the sole discretion of the Director of Utilities to provide monitoring and flow measurement facilities which coincide at the point at which effluent limits apply. Sampling locations must be safe, convenient, and accessible to the industrial user and Wichita Water Utilities personnel.

If any industrial or commercial user chooses not to accept the analytical determination made by the City for a billing period, such user shall, prior to the date on which payment of the charges for such billing is due, notify the Director of Utilities in writing and, at their sole expense, employ an independent laboratory which is certified by the Kansas Department of Health and Environment and acceptable to the Director of Utilities, to conduct sampling and analysis of their sewage.

The time period, location, and method for the collection of the samples shall be designated by the City. The City and the independent laboratory shall both preside over the collection of the samples and shall equally divide the samples so that duplicate analysis may be performed.

If results of the analysis of the sewage sample made by both the City and the independent laboratory are not comparable, the Director of Utilities may appoint a second independent laboratory certified by the Kansas Department of Health and Environment to analyze the sewage. The sampling procedures used will be the same as those outlined above. The results of these analyses, together with the previous results, shall be used to determine the actual extra strength charges for the subject billing period. The fee for the second independent laboratory analyses shall be paid for by the user.

MONITORING CHARGE:

When regulations, Federal, State or City, require monitoring of the waste from an industry, that industry shall pay a monitoring charge.

The monitoring charge shall consist of all costs for personnel, material and equipment used to collect and analyze samples from the user's wastewater. The exact charge shall be based on actual costs and shall be determined by the Director of Utilities.

REVIEW OF USER CHARGE RATE STRUCTURE:

The user charge rate schedule of the City shall be reviewed and adjusted at least biennially to:

(a) Maintain the proportional distribution of operation, maintenance and replacement costs among user classes.

(b) Provide adequate revenues to cover operation, maintenance and replacement and debt service costs.

SEWER RATES AND CHARGES

On and after July 1, 2010, the schedule of rates and charges as set forth below shall apply to all categories of sewer customers.

Inside City Rates

A. Base Service Charges
Monthly charges based on water meter size

Size	2011 & Beyond
5/8 inch	$ 5.13
3/4 inch	5.61
1 inch	7.11
1 1/2 inch	9.22
2 inch	14.81
3 inch	56.20
4 inch	71.48
6 inch	107.26
8 inch	148.09
10 inch	173.65
12 inch	229.83

B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons 2011 & Beyond
$2.47

Outside City Rate

A. Base Service Charges
Monthly charges based on water meter size

Size	2011 & Beyond
5/8 inch	$8.20
3/4 inch	8.98
1 inch	11.38
1 1/2 inch	14.76
2 inch	23.69
3 inch	89.91
4 inch	114.36
6 inch	171.62
8 inch	236.95
10 inch	277.84
12 inch	367.73

B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons

	2011 & Beyond
	$3.96

C. Flat Rate Charges

	Inside City
Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$22.34

	Outside City
Monthly rates as at set forth below shall apply to all customers without water or sewer meters.	$35.75

D. WHOLESALE RATES

Monthly, per 1,000 gallons	$1.81

All users subject to sewer charges shall be subject to the provisions of this chapter.

GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY: Government military facilities located outside the city of Wichita shall be charged inside city rates for sewer service.

SECTION 2. The original of Section 16.14.040 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after January 1, 2011, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 22nd day of June, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf,
Director of Law

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 16.14.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE SCHEDULE OF RATES FOR USERS OF THE SANITARY SEWER SYSTEM, AND REPEALING THE ORIGINAL OF SAID SECTION.

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B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons 2011 & Beyond
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B. Volume Charges (per 1,000 gallons of metered water consumption)

Rate/thousand gallons

	2011 & Beyond
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	Inside City
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D. WHOLESALE RATES

Monthly, per 1,000 gallons	$1.81

All users subject to sewer charges shall be subject to the provisions of this chapter.

GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY: Government military facilities located outside the city of Wichita shall be charged inside city rates for sewer service.

SECTION 2. The original of Section 16.14.040 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after January 1, 2011, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor
City of Wichita

ATTEST:

_____
Karen Sublett,
City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf,
Director of Law

City of Wichita
City Council Meeting
June 15, 2009

TO: Mayor and City Council Members

SUBJECT: 2009 Comprehensive Annual Financial Report

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Receive and file the report.

Background: Kansas state law requires an annual audit of all City accounts to be performed by an independent certified public accounting firm at least annually. The Comprehensive Annual Financial Report (CAFR) and the report on compliance are for the year ended December 31, 2009.

The CAFR is a financial report that goes beyond the minimum reporting requirement for public sector companies and is the nationwide standard for local government accounting. Financial results at the entity-wide level and at each fund level are presented based on generally accepted accounting principles, as well as a demonstration of compliance with each legally established budget. The CAFR is provided to investment banks that market the City's bonds, to secondary market agencies to comply with full disclosure requirements of existing debt and future offerings, to granting agencies for pre and post award review, to educational institutions for research and other interested parties.

Major sections of the CAFR are the Introductory Section, the Financial Section, and the Statistical Section. The Introductory Section includes the City Manager's transmittal letter that reviews the activities of the past year, and addresses policy and environmental issues as they relate to the City's future. The Financial Section presents a management discussion and analysis of the activities of the past year and financial schedules at the entity-wide and individual fund level. The Statistical Section presents an array of information that assists the reader with understanding the City's economic environment and financial trends. The Additional Information Section provides summary data on outstanding debt and insurance in force utilized to manage the City's risk environment.

Also included are the Single Audit and Water Utilities Sections. Of particular interest to granting agencies, the Single Audit Section presents the independent auditors' reports on internal control and compliance with requirements of grant programs. The specific reporting requirements of the water and sewer revenue bond covenants are included in the Water Utilities Section.

Analysis: The City's Comprehensive Annual Financial Report is designed to provide information needed to gain an understanding of the government's financial position, results of operations and cash flows. The independent certified public accounting firm of Allen, Gibbs & Houlik, L.C. issued its opinion that the general purpose financial statements present fairly, in all material respects, the financial position of the City as of December 31, 2009, and the results of its operations and the cash flows of its business-type activities and component unit in conformity with generally accepted accounting principles. The Wichita Public Building Commission is considered a component unit and has been appropriately reflected in the financial statements as part of the financial reporting entity.

The Government Finance Officers' Association (GFOA) of the United States and Canada awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its Comprehensive Annual Financial Report for the year ended December 31, 2008. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized CAFR, with content that conforms to program standards. The 2008 award represents the 36th consecutive year in which the City has earned this award. Staff believes that the 2009 CAFR continues to meet GFOA standards for certification and the City has applied for this recognition.

Financial Considerations: The 2009 CAFR reports the financial status of the City's funds as of December 31, 2009.

Goal Impact: The Internal Perspective is advanced with the 2009 Comprehensive Annual Financial Report, and the opinion and reports of the independent auditors, by fairly reporting the financial condition of the City to the City Council, the Citizens of Wichita and investors. In addition, the report demonstrates legal and budgetary compliance with applicable laws and ordinances for report year.

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

Recommendations/Actions: It is recommended that the City Council receive and file the 2009 Comprehensive Annual Financial Report and the Independent Auditors' report regarding internal control and compliance with administration of major federal programs for the year ended December 31, 2009.

Allen, Gibbs & Houlik, L.C.
CPAs & Advisors

Honorable Mayor and City Council Members
City of Wichita

We are pleased to present this report related to our audit of the basic financial statements of the City of Wichita, Kansas (City) for the year ended December 31, 2009. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the City's financial reporting process. Also included is a summary of recently issued accounting standards that may affect future financial reporting by the City.

Required Communications

Statement on Auditing Standards No. 114 requires the auditor to communicate certain matters to keep those charged with governance adequately informed about matters related to the financial statement audit that are, in our professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. The following summarizes these communications.

Auditors' Responsibility under Professional Standards

Our responsibility under auditing standards generally accepted in the United States of America, *Government Auditing Standards* issued by the Comptroller General of the United States; the provisions of the Single Audit Act; OMB Circular A-133; OMB's *Compliance Supplement;* and the *Kansas Municipal Audit Guide* has been described to you in our arrangement letter dated December 28, 2009.

Accounting Policies

Management has the ultimate responsibility for the appropriateness of the accounting policies used by the City. The City's significant accounting policies are discussed in Note 1 to the financial statements. In the current year, the City adopted no new Governmental Accounting Standards Board (GASB) Statements.

Significant or Unusual Transactions

We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Alternative Treatments Discussed with Management

We did not discuss with management any alternative treatments within generally accepted accounting principles for accounting policies and practices related to material items during the current audit year.

Management's Judgments and Accounting Estimates

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. Management may wish to monitor throughout the year the process used to compute and record these accounting estimates. The following describes the significant accounting estimates reflected in the City's December 31, 2009 financial statements:

301 N. Main, Suite 1700 ● Wichita, Kansas 67202-4868 ● (316) **267-7231** ● (316) **267-0339** fax ● www.aghlc.com

- Closure and post-closure care costs associated with operation of the City's landfills: Kansas and federal laws and regulations require the City to place a final cover on its landfills when closed, and perform certain maintenance and monitoring functions at the landfill site for 30 years after closure. Post-closure care costs associated with the Brooks Landfill are determined based on estimated annual care costs, multiplied by the number of years remaining for monitoring. Closure care costs associated with the construction / demolition and industrial monofill landfills are recognized based on the estimated closure cost, multiplied by the percentage capacity used in each landfill. Cost estimates are derived by City engineering staff, with input from the Kansas Department of Health and Environment. We evaluate these estimates by ensuring the process used is comparable to prior years, and is done in accordance with GASB 18, *Accounting for Municipal Solid-Waste Landfill Closure and Post-closure Care Costs*. We concluded these estimated liabilities were fairly stated.

- Incurred but not reported claims for general liability, workers' compensation and health insurance: The City is self-insured for these risks. For general liability and workers' compensation, the City hires an external actuary to evaluate and estimate the liability for current claims outstanding and estimates of future liabilities based on pending claims. Obligations related to health insurance claims are based on a past history of claims incurred, and estimates of the lag time between when a claim is filed and paid. We obtained the actuarial reports, evaluated the qualifications and reputation of the actuary, and compared the estimated liabilities derived by the actuary to prior years and the City's history of claims expenses. We also reviewed the City's health insurance liability for claims incurred but not paid at December 31, 2009, in comparison to the historical lag time for claim payments, to ensure amounts projected to be paid after year end were proper. Based on our analyses, we concluded the City's estimates for claims payable were fairly stated.

- Environmental / Pollution Remediation Obligations: As discussed above, with the implementation of GASB 49, the City is now required to record a liability for pollution remediation obligations. The City is required to estimate the components of expected pollution remediation outlays and record a liability when expected outlays are reasonably estimable based on certain obligating events. The City currently has eleven sites that qualify for accrual, estimated at a total obligation of $16,496,671. The City utilizes an external environmental consulting firm to assist with pollution remediation activities, including the development of estimated liabilities in accordance with GASB 49. We have reviewed the measurable transactions, events, methods and assumptions, including estimated recoveries derived by the City and it consulting firm to arrive at the current estimated obligation for pollution remediation. We concluded these estimated liabilities were fairly stated.

Audit Adjustments

There were no audit adjustments to the original trial balance presented to us to begin our audit.

Uncorrected Misstatements

During the course of our audit, we accumulated uncorrected misstatements that were determined by management to be immaterial, both individually and in the aggregate, to the statements of financial position, results of operations, and cash flows, and to the related financial statement disclosures. These items are summarized in the attached Summary of Adjustments Passed.

Management Representations

In connection with our audit procedures, we have obtained a written management representation letter. This representation letter constitutes written acknowledgments by management that it has the primary responsibility for the fair presentation of the financial statements in conformity with generally accepted accounting principles. The representation letter also includes the more significant oral

representations made by officers and employees during the course of the audit and includes specific representations, is intended to reduce the possibility of misunderstandings between us and the City and reminds the signing officers to consider seriously whether all material liabilities, commitments and contingencies or other important financial information have been brought to our attention.

Other Disclosures

We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit or significant disclosures to be included in the financial statements; we are not aware of any consultations management had with other accountants about accounting or auditing matters; no significant issues arising from the audit were discussed or were the subject of correspondence with management; and we did not encounter any difficulties in dealing with management relating to the performance of the audit.

Internal Control Matters

In planning and performing our audit of the financial statements of the City as of and for the year ended December 31, 2009, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected on a timely basis.

A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the following control deficiencies to be significant deficiencies:

Municipal Court

In the prior year, a significant deficiency was noted in the Municipal Court in which customer service clerks had open access to the software creating incompatible segregation of duties and the potential to manipulate the database to achieve unauthorized results. Management's response at that time was to develop and implement an exceptions report to identify key fields, including deleted/cancelled or voided payments.

During our initial review of internal controls in the Municipal Court, we noted no evidence that the exception report is being reviewed and/or approved by supervisors. Further, it was noted that the

implementation of the exception report had not taken place prior to October 15, 2009, the date of our review. Upon follow up and testing in March 2010, Municipal Court has developed and implemented a new set of review and documentation procedures to be performed by supervisors. These new procedures were tested and determined to be implemented.

During the follow-up visit it was noted that documentation and review of citation data entry by Customer Service Representatives (CSR) is lacking. When a citizen presents payment for a citation that has not yet been entered into the E*Justice system, the CSR will enter the citation information from the copy provided by the citizen, the system calculates the fines and charges due and payment is posted against that citation. The CSR does not maintain a copy of the source document used for data entry. In addition, there is no subsequent verification that the data was entered correctly. We would recommend that the source document be scanned into Lazerfiche and CSR supervisors randomly spot check the data entry to ensure its accuracy. As an alternative, when the docket clerks are presented with documentation of a citation and discover that it has already been set up in the system, they review the set up to ensure that the CSR entered it correctly and the records received by the docket clerk support their work.

Management's Response (unaudited): Municipal Court concurs with the auditor's findings. The Court has taken steps to address concerns with the data entry of citations by Customer Service Representatives. Effective May 3, 2010, citations that are data entered at customer service windows will be scanned into Laserfiche. Customer Service Supervisors will randomly spot check citations that have been data entered into E*JS to ensure accuracy. Case Creation employees will continue to review citations entered at customer service windows upon the original copy of the citation being filed by the Wichita Police Department.

Reconciliation of Subsidiary Accounting Records to Performance

We noted that reconciling revenue between subsidiary accounting systems in the Water department (Banner system) is not a standard required procedure. Accounts receivable is reconciled, but revenue is not. Without a reconciliation of revenue, the department may not identify that revenue has been improperly posted in Performance. Review of receipts from the Treasurer's Office, and reconciliation of subsidiary records to amounts posted to Performance would help ensure revenue is accurately posted to the proper departments and line items.

Management's Response (unaudited): Management concurs with the observation and will work with the departments that interface revenue transactions for improved accuracy and overall improved control.

The City's written response to the significant deficiency identified in our audit has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Closing

This report is intended solely for the information and use of the Mayor, City Council Members and management and is not intended to be and should not be used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have regarding this report. We appreciate the opportunity to continue to be of service to the City of Wichita.

Allen, Gibbs & Houlik, L.C.
CERTIFIED PUBLIC ACCOUNTANTS

Wichita, KS
May 13, 2010

Recently Issued Accounting Standards

The GASB has issued several statements not yet implemented by the City. The City's management has not yet determined the effect these Statements will have on the City's financial statements. However, the City plans to implement all standards by the required dates. The Statements which might impact the City are as follows:

GASB Statement No. 51, *Accounting and Financial Reporting for Intangible Assets*	This Statement will be effective for the City beginning with its fiscal year 2010. This Statement provides guidance regarding how to identify, account for and report intangible assets. The new standard characterizes an intangible asset as an asset that lacks physical substance, is nonfinancial in nature and has an initial useful life extending beyond a single reporting period. The requirements of GASB 51 for the most part require retroactive application.
GASB Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*	This Statement will be effective for the City beginning with its fiscal year 2010. This statement requires that the fair value of financial arrangements called "derivatives" or "derivative instruments" be reported in the financial statements of state and local governments.
GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions.*	This Statement will be effective for the City beginning with its fiscal year 2011. This statement is intended to improve the usefulness of information provided to financial report users about fund balance by providing clearer, more structured fund balance classifications, and by clarifying the definitions of existing governmental fund types. GASB 54 establishes a hierarchy of fund balance classifications based primarily on the extent to which a government is bound to observe spending constraints imposed upon how resources reported in governmental funds may be used. Specifically, GASB 54 distinguishes fund balance between amounts that are considered nonspendable and other amounts that are classified based on the relative strength of the constraints that control the purposes for which specific amounts can be spent.

City of Wichita
Summary of Adjustments Passed
12/31/09

ENTITY-WIDE STATEMENTS

Description	Effect on					
		Assets	Liabilities	Beg. Equity	Revenues	Expenses
ENTITY WIDE ENTRIES						
Reduction of OPEB liability in governmental activities, for amount allocated to enterprise funds			609,828	(345,458)		(264,370)
FUND ENTRIES (summary)						
General		7,562,566	2,982,646	(7,897,049)	(2,923,163)	275,000
Federal & state assistance						
Debt Service						
Street Improvement						
Water Utility			(204,599)	116,118		88,481
Sewer Utility			(113,050)	65,403		47,647
Airport Fund		279,238	(147,024)	(39,197)	(161,612)	68,595
Storm Water Fund			(38,001)	20,912		17,089
Aggregate of Nonmajor, Internal Service and Fiduciary Funds		4,200,937	(107,154)	(4,402,246)	265,905	42,558
		12,042,741	2,982,646	(12,481,517)	(2,818,870)	275,000

Total Current Year Effect	(2,543,870)
Total Cumulative Effect on Equity	(15,025,387)

City of Wichita
Summary of Adjustments Passed
12/31/09

GENERAL FUND

Description	Effect on				
	Assets	Liabilities	Beg. Equity	Revenues	Expenditures
Effect of prior year's entries on current year :					
To reverse franchise tax receivable			(3,430,207)	3,430,207	
To reverse sales tax receivable			(4,466,842)	4,466,842	
To reverse recording of liabilities					
To reverse bank reconciling items					
To reverse interest receivable					
Current year adjustments passed:					
To record franchise fee receivable (12 months already recorded in 2009)	3,361,629			(3,361,629)	
To record revenue reclassed from A/P		3,257,646		(3,257,646)	
To record sales tax receivable (12 months already recorded in 2009)	4,200,937			(4,200,937)	
Legal accrual		(275,000)			275,000
	7,562,566	2,982,646	(7,897,049)	(2,923,163)	275,000

Current Year Effect	(2,648,163)
Cumulative Effect on Equity	(10,545,212)

City of Wichita
Summary of Adjustments Passed
12/31/09

WATER UTILITY (MAJOR FUND)

Description	Effect on				
	Assets	Liabilities	Beg. Equity	Revenues	Expenses
Effect of prior year's entries on current year :					
To reverse estimated allocation of OPEB liability			116,118		(116,118)
Current year adjustments passed:					
Record estimated allocation of OPEB liability to this fund		(204,599)			204,599
	-	(204,599)	116,118	-	88,481

Current Year Effect	88,481
Cumulative Effect on Equity	204,599

City of Wichita
Summary of Adjustments Passed
12/31/09

SEWER UTILITY (MAJOR FUND)

GAAP

Description	Effect on				
	Assets	Liabilities	Beg. Equity	Revenues	Expenses
Effect of prior year's entries on current year :					
To reverse estimated allocation of OPEB liability			65,403		(65,403)
Current year adjustments passed:					
Record estimated allocation of OPEB liability to this fund		(113,050)			113,050
	-	(113,050)	65,403	-	47,647

Current Year Effect	47,647
Cumulative Effect on Equity	47,647

City of Wichita
Summary of Adjustments Passed
12/31/09

AIRPORT AUTHORITY (MAJOR FUND)

Description	Effect on				
	Assets	Liabilities	Beg. Equity	Revenues	Expenses
Effect of prior year's entries on current year :					
To reverse accounts receivable adjustment			(117,626)	117,626	
To reverse estimated allocation of OPEB liability			78,429		(78,429)
Current year adjustments passed:					
To adjust accounts receivable to actual	279,238			(279,238)	
Record estimated allocation of OPEB liability to this fund		(147,024)			147,024
	279,238	(147,024)	(39,197)	(161,612)	68,595

Current Year Effect	(93,017)
Cumulative Effect on Equity	(132,214)

City of Wichita
Summary of Adjustments Passed
12/31/09

STORM WATER UTILITY (MAJOR FUND)

Description	Effect on				
	Assets	Liabilities	Beg. Equity	Revenues	Expenses
Effect of prior year's entries on current year :					
To reverse estimated allocation of OPEB liability			20,912		(20,912)
Current year adjustments passed:					
Record estimated allocation of OPEB liability to this fund		(38,001)			38,001
	-	(38,001)	20,912	-	17,089

Current Year Effect	17,089
Cumulative Effect on Equity	38,001

City of Wichita
Summary of Adjustments Passed
12/31/09

AGGREGATE OF ALL NON-MAJOR FUNDS, INTERNAL SERVICE FUNDS, AND FIDUCIARY FUNDS

Description	Fund	Effect on				
		Assets	Liabilities	Beg. Bal.	Revenues	Expenditures
Effect of prior year's entries on current year :						
To reverse sales tax receivable	Sales Tax Pledge			(4,466,842)	4,466,842	
To reverse estimated allocation of OPEB liability	Various			64,596		(64,596)
Current year adjustments passed:						
To record sales tax receivable (12 months already recorded in 2008)	Sales Tax Pledge	4,200,937			(4,200,937)	
Record estimated allocation of OPEB liability to this fund	Various		(107,154)			107,154
		4,200,937	(107,154)	(4,402,246)	265,905	42,558

Current Year Effect	308,463
Cumulative Effect on Equity	(4,093,783)

Agenda Item No. III-5

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Contract Lease Extension with Henry Helgerson Company (All districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New business

- -

Recommendation: Approve the lease extension to the storage agreement with Henry Helgerson Company.

Background: On September 1, 2007 the City entered into a Storage Agreement Lease with the Henry Helgerson Company which allows the Henry Helgerson Company to store decorator supplies at the Century II facility. The current lease is a three year and four month agreement which will expire December 31, 2010.

According to the agreement, rental fees for storage space were increased from $3.00 to $4.50 from 2007 to 2009. In 2010, the rental fees for storage space were to increase from $4.50 to $6.00. The amount of space the Henry Helgerson Company leases amounts to 4,595 square feet. In 2009, this amounted to $20,677.50 paid in quarterly installments of $5,169.38. For 2010, the total amount is set to increase to $27,570 with quarterly installments of $6,892.50.

In addition, the Henry Helgerson Company also pays $100 per year or $25 per quarter for electrical access. This fee is not expected to increase. Due to the current economic downturn, the Henry Helgerson Company has requested the scheduled increase from $4.50 to $6 identified in its contract for 2010 be adjusted.

Analysis: Staff negotiated with the Henry Helgerson Company who agreed to pay an increase in the fee from $4.50 to $4.75 for 2010 based on rates from the current Consumer Price Index. The Henry Helgerson Company agrees to pay the $4.75 rate retroactive from January 1, 2010. With the current economic environment, it is recommended that the increased fee for 2010 be reduced from $6.00 per square foot to $4.75 per square foot rather than losing the entire storage space revenue. Since the current contract with the Henry Helgerson Company will expire on December 31, 2010, staff will renegotiate rates and address future increases in a new contract for 2011 and beyond before year-end.

Financial Consideration: The Henry Helgerson Company agrees to the increase from $4.50 to $4.75 for 2010 and will pay the City $21,826.25 per year or $5,456.56 per quarter. This equates to $4.75 per square foot for 4,595 total square feet. In addition, they will continue to pay electrical utility costs of $100 per year or $25 per quarter.

Goal Impact: This project impacts the Quality of Life and ensures that citizens receive a positive return on all of their quality of life investments.

Legal Considerations: The City Attorney has approved the contract lease extension per form.

Recommendation/Action: Approve the amendment to the Storage Agreement Lease with the Henry Helgerson Company for 2010.

Attachment: Original Henry Helgerson Company Storage Agreement Lease
Lease extension to Storage Agreement

Approved / Accepted By City Council
Date 07-03-07

Storage Agreement Lease
Henry Helgerson Company

This Agreement is made and entered into this 1st day of September, 2007

BY AND BETWEEN **The City of Wichita, Kansas,**
a municipal corporation,
455 North Main Street
Wichita, Kansas 67202

AND **Henry Helgerson Company**
601 N. Athenian
Wichita, KS 67203

WITNESSETH THAT:

WHEREAS, The City of Wichita (the "City") is the owner of the community facility known as "Century II," and has agreed to enter into this Storage Agreement with Henry Helgerson Company. This agreement will set forth certain terms and conditions upon which the City is willing to enter into a storage arrangement with the Henry Helgerson Company concerning the right and privilege to store decorator services supplies at Century II.

WHEREAS, the fundamental mission of Century II is to provide a clean and safe venue for private and public gatherings, encompassing the performing arts, conventions, trade shows, banquets, meetings, public exhibits, religious programs and special events; and,

WHEREAS, The City recognizes the need for community access and for this reason, the City offers, through subsidy, affordable rates, which encourages maximum local use;

NOW, THEREFORE, the above named parties do hereby agree as follows with regards to certain specified matters relating to decorator supplies storage space.

1. **AGREEMENT FOR THE USE OF PREMISES.** Consistent with the terms of this Storage Agreement, and during the term hereof, the City will enter into this lease with HENRY HELGERSON COMPANY, concerning the use of storage space, designated by Century II, and currently occupied by HENRY HELGERSON COMPANY at Century II.

2. **A. TERM AND RENEWAL OPTIONS.** The initial term of this Agreement will be for three (3) years plus four (4) months and will be renewed every three (3) years when both parties mutually agree. This agreement shall not be cancelled to accommodate other storage customers unless cancelled by the City of Wichita Council through official action. The HENRY HELGERSON COMPANY may not assign this agreement to any other party without the written consent of Century II. HENRY HELGERSON COMPANY or the City may give notice of its intention to renew, cancel or alter square footage sixty (60) days prior to the renewal term date. HENRY HELGERSON COMPANY or the City may give notice of it's intention to not extend a renewal term by delivering a written notice to the other party, not less than sixty (60) days prior to the expiration of the third year.

3. **PAYMENT.** The Henry Helgerson Company will make a lump sum storage payment for September 2007, October 2007, November 2007, and December 2007 on September 1, 2007. Beginning January 1, 2008, storage space will be leased on a calendar year basis. HENRY HELGERSON COMPANY will make quarterly payments due to the City on the 10th day of each quarter. HENRY HELGERSON COMPANY may make payments by mail, hand-delivery or automated clearinghouse ("ACH") transfer, so long as the City receives payments on or before the applicable due dates. Payments can be mailed to: Century II, Attn: Administrative Office, 225 W. Douglas, Wichita, Kansas 67202.

4. **LIABILITY.** The City shall not be liable to HENRY HELGERSON COMPANY for any damage done to or loss of personal property, or for damage or loss suffered by the business or occupation of HENRY HELGERSON COMPANY arising from any act of negligence of any occupants of the building (other than the negligence of the City or its agents) or of the employees, patrons or customers of HENRY HELGERSON COMPANY. HENRY HELGERSON COMPANY agrees to indemnify the City and hold the City harmless from any loss, liability, damage, cost and expense of investigating or defending any claim therefore occurring on or about the premises arising in any way as a result of HENRY HELGERSON COMPANY's occupancy of the premises.

5. **USE OF PREMISES.** Century II may be used by HENRY HELGERSON COMPANY only for storage space, or as a contracted decorator service provider, unless prior written permission for other use is obtained from the City. Further, HENRY HELGERSON COMPANY shall not use or permit said premises, or any part thereof, to be used for any other purpose or purposes than those contemplated by the applicable lease. HENRY HELGERSON COMPANY shall not commit, or suffer to be committed, any waste upon said premises unless specific to the convention or building event, and HENRY HELGERSON COMPANY further agrees not to connect with electric wires, water, gas or sewer pipes, or any apparatus, machinery or device without the consent of the City. HENRY HELGERSON COMPANY shall neither use nor occupy the demised premises for any unlawful, disreputable or ultra hazardous business purpose or activity, nor operate or conduct its business in a manner constituting a nuisance of any kind. Upon notice or discovery, HENRY HELGERSON COMPANY agrees to promptly take action and cease any activity or use in violation of this Agreement.

Century II agrees not to charge fees for the storage of HENRY HELGERSON COMPANY'S ticket booths in exchange that the HENRY HELGERSON COMPANY will allow Century II staff to utilize said ticket booths on an as needed basis and when available with no additional fees assessed. Usage of these booths will be coordinated through the administrative office of HENRY HELGERSON COMPANY.

Century II will provide electrical outlets for vacuuming and carpet cleaning, and water hookup for general cleaning to The HENRY HELGERSON COMPANY. The HENRY HELGERSON COMPANY will pay $34.00 lump sum payment during the first four (4) months of this agreement then $100.00 per calendar year during the term of this agreement. Payment will be due quarterly with storage lease payment. Any extra-ordinary usage of electricity or water must be approved in writing by the Century II management

6. **RENTAL FEES.** As part consideration for this Agreement and as rent for the

storage space, HENERY HELGERSON COMPNAY agrees to pay to the City storage and utility fees at the following rates:

a) Storage Space - The Henry Helgerson Company will make a lump sum storage payment for September 2007, October 2007, November 2007, and December 2007 on September 1, 2007 at the rate of Three Dollars and no Cents ($3.00) per square foot. Beginning January 1, 2008, storage space will be leased on a calendar year basis and paid at the beginning of each quarter. During the initial first year of the agreement term, the rental rate applicable to storage space shall be the sum of Three Dollars and no Cents ($3.00) per square foot per year. This rental rate shall progressively increase by the additional sum of one dollar and fifty cents ($1.50) per square foot per year at the commencement of each renewal year term as shown in the chart below and each year thereafter. HENRY HELGERSON COMPANY may elect to reduce storage space but must declare square footage on the term renewal date each year. Said storage space however may not be less than 2,345 Sq ft for current square foot pricing.

b)

Renewal Term Date	Cost Per Square Ft	Leased Sq Ft	Storage Rent	Qtr Payments	Lump Sum Payment
Sept. 2007-Dec. 2007	$3.00	4,595			$4,595.00
January 1, 2008	$3.00	4,595	$13,785.00	$3,446.25	
January 1, 2009	$4.50	4,595	$20,677.50	$5,169.38	
January 1, 2010	$6.00	4,595	$27,570.00	$6,892.50	

c) Electric and Water Hookup-The HENRY HELGERSON COMPANY will pay $34.00 lump sum payment during the first four (4) months of this agreement then $100.00 per calendar year during the term of this agreement. Payments will be $25.00 per quarter due to the City on the 10th day of each quarter. Any extra-ordinary usage of electricity or water must be approved in writing by Century II management

7. **ADA COMPLIANCE**. HENRY HELGERSON COMPANY and the City each represent and warrant that they are cognizant of the provisions of the Americans with Disabilities Act of 1990 (ADA) to the extent that such provisions may apply to each party to this Agreement. The City represents and warrants that reasonable accommodations have been made (or are in progress) relating to accessibility standards for public facilities and assisted listening devices. HENRY HELGERSON COMPANY represents and warrants that it will make reasonable accommodations regarding provisions of the ADA relating to the production/performance of its events, including the distribution and collection of assisted listening receivers. Each party will agree to indemnify and hold harmless the other party for any liability, penalty, fine, punishment, judgment, or claims, whether civil, administrative or otherwise, which may arise or be imposed in connection with the indemnifying party's failure to comply with provisions of the ADA.

8. **LATE PAYMENT PENALITES**. All rental installments not received (postmarks do not count) by the City by the date on which they are due shall be considered delinquent. A

late charge of $25.00 will be added to the outstanding balance, which shall also accrue interest at 12% per annum until paid. The provision for such late charge and interest shall be in addition to all of the City's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting City's remedies in any manner.

9. **CONDUCT OF BUSINESS.** HENRY HELGERSON COMPANY will conduct it's business and control its agents; employees and invitees in such a manner as not to create any nuisance, or interfere with, annoy or disturb other occupants, guests, neighbors, or the City in the management of the building.

10. **INDEMNIFICATION AND NON-LIABILITY AGREEMENT.** The City shall not be liable to HENRY HELGERSON COMPANY or to HENRY HELGERSON COMPANY's employees, patrons, guests or visitors in or upon the said premises for any damage to person or property caused or claimed to have been caused by the negligence of HENRY HELGERSON COMPANY, or HENRY HELGERSON COMPANY's agents, employees, or invitees. HENRY HELGERSON COMPANY agrees to save and hold the City harmless of and from any claim arising with respect to any portion of the premises herein leased to or occupied by HENRY HELGERSON COMPANY.

City shall not be liable or responsible for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war court order, requisition or order of governmental body or authority or other matter beyond the reasonable control of the City, or for any damage or inconvenience which may arise through repair or alteration of any part of the premises, or failure to make repairs, or from any cause whatsoever except as provided under the Kansas Tort Claims Act.

11. **PUBLIC LIABILITY INSURANCE.** HENRY HELGERSON COMPANY agrees to carry public liability insurance on the premises during the term hereof, covering both the City and HENRY HELGERSON COMPANY, with companies licensed to do business in the State of Kansas for limits of not less than $500,000 for injury or death of any one person, $500,000, for any one occurrence, $500,000 property damage insurance, and contractual liability coverage recognizing this Agreement, and providing that the City and HENRY HELGERSON COMPANY shall be given a minimum of thirty (30) days written notice by such insurance company prior to cancellation, termination or change in such insurance.

12. **BUILDING.** The City will provide a clean and well-maintained building. The facility will maintain all spaces being used at a comfortable temperature. HENRY HELGERSON COMPANY agrees to keep designated storage spaces clean and well-maintained. The City, however, shall not be liable for failure to furnish any of the foregoing when such failure is caused by conditions beyond the control of City.

13. **THE CITY OF WICHITA'S COVENANTS.** It is agreed by the parties hereto that it shall be the duty and obligation of the City herein:

a. To deliver the said premises to the HENRY HELGERSON COMPANY, at commencement of the term of leases issued under this Agreement, in "as-is" condition.
b. To provide routine maintenance and janitorial services with respect to the premises occupied by HENRY HELGERSON COMPANY and with respect to Century II generally.

c. To allow HENRY HELGERSON COMPANY, contingent upon HENRY HELGERSON COMPANY's compliance with its own covenants, duties and obligations herein and in leases issued hereunder, the right to use and occupy the leased premises in accordance with the terms of the leases issued hereunder.
d. To permit the HENRY HELGERSON COMPANY to continue to operate its own decorator service business in and outside of Century II including accepting of freight delivery for Century II conventions and Century II building events.

14. **HENRY HELGERSON COMPANY'S COVENANTS.** In consideration of the foregoing, HENRY HELGERSON COMPANY hereby agrees:

a. To promptly pay the specified rents for the said premises in the manner and at the times as herein provided to the City, its successors and assigns, or to its agent.
b. To keep the spaces occupied by HENRY HELGERSON COMPANY and adjacent hallways in good repair, neat, clean, clear of items and obstacles, safe, and sanitary during the term of this Agreement, and to observe and comply with all regulations governing said premises made by any property-governing agency as to cleanliness, all without cost or expense to City.
c. To notify the City immediately of any major problem relative to the space, building and/or the grounds.

15. **MUTUAL WAIVERS OF SUBROGATION.** Each party hereby waives any and all claims against the other party for any and all liability or responsibility for any loss, injury or damage to any person(s), the said premises, the building or the contents thereof which may be caused by fire, casualty, accident, or otherwise during the term of the Agreement if, but only if, and only to the extent that, such loss or damage is covered by and recoverable under valid and collectible insurance carried by the waiving party.

16. **IMPROVEMENTS AND ALTERATIONS.** HENRY HELGERSON COMPANY shall not expand storage areas, make material changes or alteration on said premises unless it shall first have obtained City's written consent thereto.

17. **LIENS - REGULATIONS.** HENRY HELGERSON COMPANY shall not, during the term of this Agreement, permit or suffer any lien or encumbrance to attach to the premises or any part thereof and shall indemnify and save harmless the City against the same. HENRY HELGERSON COMPANY, its agents and employees, shall be subject to any and all applicable rules, regulations, orders and restrictions which are now in force or which may be hereafter adopted by the City of Wichita, Kansas, with respect to the operation and maintenance of the premises described herein. Further, HENRY HELGERSON COMPANY shall comply with all laws and ordinances of the State of Kansas and the City of Wichita, Kansas.

18. **SIGNS AND AWNINGS.** No sign, notice, awning, advertisement, picture or other inscription of any kind shall be placed or put upon any portion of the premises, unless the written consent of City shall first have been obtained.

19. **INSPECTION AND ENTRY.** It shall be lawful for the City, its agents and representatives, at any reasonable hours in the day to enter into or upon said premises for the purpose of examining into the condition thereof or to make such repairs and alteration as may be

necessary for the safety and preservation of the building, or in furtherance of ADA or other regulatory requirements.

20. **OWNERSHIP REPRESENTATION.** Under no circumstances shall the HENRY HELGERSON COMPANY represent to any party that HENRY HELGERSON COMPANY is the owner of the property covered by the Agreement or the agent or trustee of the City. HENRY HELGERSON COMPANY understands and agrees that no authorization to act for, on or in behalf of the City is granted to HENRY HELGERSON COMPANY.

21. **REMOVAL OF PROPERTY AND EQUIPMENT.** HENRY HELGERSON COMPANY shall have the right to load and unload trailers on west dock, as space is available. THE HENRY HELGERSON COMPANY shall have the right to load, unload, and remove from the said premises, at any time during the Agreement term, any and all equipment placed inside Century II and owned by HENRY HELGERSON COMPANY, but not if the same are so permanently attached to the building that removal thereof will leave said building damaged or materially altered, and provided all rents are paid in full; and failing to do so, said improvements and/or equipment shall be and become the property of the City.

22. **NONDISCRIMINATION.** HENRY HELGERSON COMPANY agrees to comply with the requirements of City of Wichita Administrative Regulation on Nondiscrimination and Equal Opportunity Statement.

23. **ASSIGNMENT AND SUBLEASE.** It is agreed that HENRY HELGERSON COMPANY may not assign property nor sublet in whole or in part any of Century II to any individual or organization.

24. **DESTRUCTION.** In the event of the destruction of the building containing said premises by fire, windstorm, or other cause, this Agreement and any lease(s) issued hereunder shall immediately terminate and cease unless the City shall within ten (10) days thereafter notify HENRY HELGERSON COMPANY in writing of the City's desire to continue said Agreement and lease(s), in which event the City shall be obligated to restore said building in due and reasonable time to substantially its former condition except as to any property owned by HENRY HELGERSON COMPANY therein, and in that event the rent shall be abated until said premises are restored to condition for occupancy. Slight or partial damage by fire, windstorm, or other cause, which does not render the building substantially unfit for use and occupancy shall not affect the terms of this Agreement.

25. **EVENT OF CASUALTY.** In the event the improvements on the premises shall be damaged or destroyed by a casualty as to become unusable, then the City may, if the City so elects, give notice in writing terminating this Agreement and any lease(s) issued hereunder upon proper notice.

26. **EVENTS OF DEFAULT.** The following shall be considered, for all purposes, to be defaults under and breaches of this Agreement, and of any lease(s) issued hereunder, by HENRY HELGERSON COMPANY:

a. Any failure of HENRY HELGERSON COMPANY to pay any invoices or installment after the invoice due date and for a period of ten (10) days from the date such payment is due.

b. Failure of HENRY HELGERSON COMPANY to perform or observe any of the terms, provisions, conditions and covenants of this Agreement (or any lease(s) issued hereunder), other than the payment of rent, if such failure is not cured within ten (10) days after written notice thereof to HENRY HELGERSON COMPANY.
c. HENRY HELGERSON COMPANY shall become bankrupt or insolvent, or file or have filed against it a petition in bankruptcy, or the reorganization or arrangement, or for the appointment of a receiver or trustee of all or a substantial portion of the HENRY HELGERSON COMPANY's property, or HENRY HELGERSON COMPANY makes an assignment for the benefit of creditors.
d. The demised premises come into the hands of any person other than as expressly permitted under this Agreement.

27. **DISPUTE RESOLUTION**. Disputes arising in the performance of this Agreement or leases issued hereunder, which are not resolved by Agreement of the parties shall be decided in writing by the City's Director of Parks and Recreation. This decision shall be final and conclusive unless within ten (10) business days from the date of receipt of its copy, HENRY HELGERSON COMPANY mails or otherwise furnishes a written appeal to the City Manager and City Council Members. In connection with any such appeal, HENRY HELGERSON COMPANY shall be afforded an opportunity to be heard by the City Manager and City Council Members and to offer information in support of its position. If HENRY HELGERSON COMPANY is dissatisfied with the action or final decision, or failure to act by the City with respect to such dispute, HENRY HELGERSON COMPANY may seek review of any final decision of the City Council by filing suit with the 18th Judicial District of Kansas.

28. **TERMINATION.** This Agreement, and any lease(s) issued hereunder, shall terminate without any further required notice upon occurrence of any of the following.

a. The expiration of the lease term or any extension thereof, if not further renewed or replaced with new leases issued under the terms of this Agreement.
b. Any default or breach of any covenants and provisions of this Agreement or any lease(s) issued hereunder by HENRY HELGERSON COMPANY and failure to cure such breach by HENRY HELGERSON COMPANY after notice periods identified hereinbefore, in which case, HENRY HELGERSON COMPANY shall cease to be entitled to possession of the leased premises, and the City may distrain for rent due and damages and recover possession of said premises as provided by law.
c. Upon ninety (90) days after declaration by the City that the leased premises are needed for public purpose.

29. **ENFORCEABILITY/SEVERABILITY.** No covenant, term or condition of this Agreement shall be deemed waived by City, or HENRY HELGERSON COMPANY, unless waived in writing. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

30. **BINDING ON PARTIES.** Subject to the limitations provided hereinbefore hereof, this Agreement shall be, jointly and severally, binding on the parties.

31. **NOTICE.** All HENRY HELGERSON COMPANY correspondence, notices and demands to the City must be given in writing to:

Office of Parks & Recreation
Attention: Director
455 N. Main Street – 11th Floor
Wichita, Kansas 67202

All City correspondence, notices and demands to HENRY HELGERSON COMPANY must be given in writing to:

Henry Helgerson Company
Attention: Henry Helgerson
601 N. Athenian
Wichita, Kansas 67203

32. **EXHIBITS.** All of the exhibits referenced hereinabove are part of the Agreement as if fully set forth herein.

33. **CAPTIONS.** The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and conditions of this Agreement.

34. **CASH BASIS.** It is the intent of the parties that the provisions of this Agreement and any leases issued hereunder are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.)(the "Cash Basis Law") or the Kansas Budget Law (K.S.A. 79-2925) (the "Budget Law"), and therefore, notwithstanding anything to the contrary herein or in any lease contained, the City's obligations under this Agreement and any lease are to be construed in a manner that assures that the City is at all times not in violation of the Cash Basis Law or the Budget Law. Accordingly, all City financial obligations will be subject to the sufficiency of annual appropriations.

35. **AMENDMENTS; BINDING EFFECT.** This Agreement may not be altered, changed or amended, except by instrument in writing signed by the parties hereto. All terms, provisions, covenants and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective permitted successors in interest and legal representatives, except as otherwise herein expressly provided.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate the day and year first above written.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Henry Helgerson Company

By _____
Henry Helgerson, Owner

ATTEST:

APPROVED AS TO FORM:

By _____
Karen Sublett, City Clerk

_____
Gary E. Rebenstorf
Director of Law

Storage Agreement Lease Extension

This agreement is made and entered into this 10th day of April, 2010 between the City of Wichita, Kansas, a municipal corporation and Henry Helgerson Company, a Kansas sole proprietorship. The parties entered into a storage agreement lease on September 1, 2007 (Agreement). That Agreement is still in effect through holdover status. The parties wish to amend that Agreement by extending its term for an additional year and providing alternative rental rate calculations based upon that extended term.

The parties desire to amend the Agreement to allow for the current annual renewal term, which commenced on January 1, 2010, as described in section 6 - rental fees of the Agreement to have compensation set at the same rate as existed for calendar 2009, the same being $4.75 per square foot of leased storage space, to be retroactive to January 1, 2010.

The parties further desire to amend the Agreement to provide for an additional annual extension of the lease to commence on January 1, 2011 and run for that calendar year, with the rental cost per square foot for that last annual renewal to be set at $6.00 per square foot of leased storage space.

The parties desire that these terms amend the existing Agreement, and that all other terms of that Agreement not in conflict with this amendment remain in full force and effect.

CITY OF WICHITA, KANSAS

By: Carl Brewer, Mayor

Henry Helgerson Company

By: Henry Helgerson, Owner

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law and City Attorney

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council Members

SUBJECT: Ordinance Amending Sections 3.49.020, 3.49.030 and 11.97.060, pertaining to Emergency Wrecker Services

INITIATED BY: Police and Law Departments

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: Since 1978, the City of Wichita has utilized a wrecker rotation list to remove vehicles that are involved in accidents, abandoned on the highway causing traffic hazards, or impounded by law enforcement. Chapter 3.49 of the City Code establishes rotation list procedures to be utilized by the Wichita Police Department. The ordinance provides that the City receive five percent of the gross receipts from all impounds.

Currently, the City has contracts with vendors for the sale of unclaimed property. These agreements provide that the City receives 87 to 100 percent of revenues from the sale of other unclaimed property.

Emergency wrecker companies are currently issued licenses for one year. The licenses expire on July 1 of each year.

Analysis: The proposed amendments reduce the length of the emergency wrecker license to six months. Additionally, the amendments allow staff the authority to issue requests for bids for towing and selling abandoned or wrecked vehicles. Current wrecker licensees would be invited to submit proposals.

Financial Considerations: Based on recovery of 87 percent of sales of abandoned vehicles in 2009, the potential increased income to the City would be approximately $181,000 per year.

Goal Impact: These amendments further the goal of Safe and Secure Neighborhood.

Legal Considerations: The amendments have been prepared and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council place the ordinance on first reading.

Attachments: Delineated copy of the ordinance.

First Published in The Wichita Eagle on _____

DELINEATED 06/07/2010

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 3.49.020, 3.49.030 AND 11.97.060 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO WRECKER SERVICES, TOWING AND IMPOUND AND REPEALING THE ORIGINAL OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.49.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License--Required--Nontransferable--Expiration date--Location.**

No persons may engage in emergency wrecker service inside the city without first obtaining an emergency wrecker company license from the city. Only one license may be issued to each emergency wrecker company. A license is not assignable or transferable. Emergency wrecker company licenses shall be for a ~~one-year~~ <u>six-month</u> period ~~and shall expire on the first day of July of each year~~. The license issued to an emergency wrecker company authorizes the licensee and all its bona fide employees to engage in emergency wrecker service. Any person engaging in emergency wrecker services inside the city shall operate from a single location inside the city."

SECTION 2. Section 3.49.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License--Application--Fees--Renewal.** (a) A person desiring to engage in emergency wrecker service in the city shall file with the city's licensing

agent a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant's authorized agent. The following information is required in the application:

(1) Business name, address and telephone number of the emergency wrecker company;

(2) Number and types of wreckers to be operated;

(3) Vehicle identification number of each wrecker;

(4) The location of the facilities to be owned or leased by the applicant for the purpose of operating the emergency wrecker service, including the location of primary and secondary storage facilities;

(5) The name, address and telephone number of the owner of the emergency wrecker company;

(6) An agreement that the applicant will participate in the wrecker rotation list;

(7) Proof that the applicant has secured the payment of compensation to the applicant's employees as set forth in K.S.A. 44-532(b) and amendments thereto.

(b) A fee of ~~fifty~~ twenty-five dollars for processing the initial application or any renewals thereof must be submitted with the application; this fee accompanying the applicant shall not be refundable.

(c) Every license issued pursuant to this chapter shall terminate at the expiration of ~~one year~~ six months from the date of issuance, unless sooner revoked, and must be renewed before operation of an emergency wrecker service is allowed ~~in the following year~~ to continue. Anyone desiring to renew a license

shall follow the procedures in subsection (a) of this section for an initial application.

SECTION 3. Section 11.97.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Contract for towing and storage.** (a) The city may, after a competitive bid process, contract for the towing and storage of vehicles towed pursuant to ~~Sections 8.01.150 and 7.40.047 of~~ the Code of the City of Wichita. Any such bid process shall be based on such specifications for towing and storage of vehicles as the city deems appropriate and in the public interest and the award of a contract for towing and storage of vehicles shall be based on the following factors:

(1) Amount of the bid;

(2) Integrity, skill and business judgment of the bidder;

(3) General experience in providing towing and storage services;

(4) Conduct and performance under previous towing/impound contracts with the City of Wichita or any other city as the same relates to honesty, promptness, skill, efficiency, and a satisfactory relationship with vehicle owners;

(5) Existing availability of equipment, facilities and personnel; and

(6) Financial ability and willingness to expand or improve available equipment, facilities and services.

(b) Upon the award of a contract under subsection (a) above, the contractor shall file with the city clerk a list setting out the name and location of each storage location of the contractor."

SECTION 4. The originals of Sections 3.49.020, 3.49.030 and 11.97.060 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

First Published in The Wichita Eagle on _____

06/07/2010

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 3.49.020, 3.49.030 AND 11.97.060 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO WRECKER SERVICES, TOWING AND IMPOUND AND REPEALING THE ORIGINAL OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.49.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License--Required--Nontransferable--Expiration date--Location.**

No persons may engage in emergency wrecker service inside the city without first obtaining an emergency wrecker company license from the city. Only one license may be issued to each emergency wrecker company. A license is not assignable or transferable. Emergency wrecker company licenses shall be for a six-month period. The license issued to an emergency wrecker company authorizes the licensee and all its bona fide employees to engage in emergency wrecker service. Any person engaging in emergency wrecker services inside the city shall operate from a single location inside the city."

SECTION 2. Section 3.49.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License--Application--Fees--Renewal.** (a) A person desiring to engage in emergency wrecker service in the city shall file with the city's licensing agent a written application upon a form provided for that purpose, which must be

signed by the applicant or the applicant's authorized agent. The following information is required in the application:

(1) Business name, address and telephone number of the emergency wrecker company;

(2) Number and types of wreckers to be operated;

(3) Vehicle identification number of each wrecker;

(4) The location of the facilities to be owned or leased by the applicant for the purpose of operating the emergency wrecker service, including the location of primary and secondary storage facilities;

(5) The name, address and telephone number of the owner of the emergency wrecker company;

(6) An agreement that the applicant will participate in the wrecker rotation list;

(7) Proof that the applicant has secured the payment of compensation to the applicant's employees as set forth in K.S.A. 44-532(b) and amendments thereto.

(b) A fee of twenty-five dollars for processing the initial application or any renewals thereof must be submitted with the application; this fee accompanying the applicant shall not be refundable.

(c) Every license issued pursuant to this chapter shall terminate at the expiration of six months from the date of issuance, unless sooner revoked, and must be renewed before operation of an emergency wrecker service is allowed to

continue. Anyone desiring to renew a license shall follow the procedures in subsection (a) of this section for an initial application.

SECTION 3. Section 11.97.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Contract for towing and storage.** (a) The city may, after a competitive bid process, contract for the towing and storage of vehicles towed pursuant to the Code of the City of Wichita. Any such bid process shall be based on such specifications for towing and storage of vehicles as the city deems appropriate and in the public interest and the award of a contract for towing and storage of vehicles shall be based on the following factors:

(1) Amount of the bid;

(2) Integrity, skill and business judgment of the bidder;

(3) General experience in providing towing and storage services;

(4) Conduct and performance under previous towing/impound contracts with the City of Wichita or any other city as the same relates to honesty, promptness, skill, efficiency, and a satisfactory relationship with vehicle owners;

(5) Existing availability of equipment, facilities and personnel; and

(6) Financial ability and willingness to expand or improve available equipment, facilities and services.

(b) Upon the award of a contract under subsection (a) above, the contractor shall file with the city clerk a list setting out the name and location of each storage location of the contractor."

SECTION 4. The originals of Sections 3.49.020, 3.49.030 and 11.97.060 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Amendments to Chapter 3.11 of the Code of the City of Wichita, relating to Community Events

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: Place ordinance on first reading.

Background: In May of 2010, the City Council requested staff review the community event ordinances regarding the denial of community event permits and return with suggested amendments. During the review by staff, additional amendments were recommended to address issues with the timely filing of applications, costs associated with review of the applications and clarification of what events at schools and churches were required to obtain community event permits.

Analysis: Currently the ordinances prohibit issuance of a community event license for five years following a license revocation or violation of the ordinances. The amendments reduce this period of time from five years to two years. The amendments additionally:

1. Require a $25 non-refundable application fee to offset staff costs to review applications and perform necessary inspection. The proposed fee will assist in covering the cost of administering the community event ordinance which requires up to 16 department approvals and reviews.

2. Require a $25 processing fee for street closure requests. Street closure requests require review and approval from a number of City departments. Staff time is also required to notify appropriate emergency personnel and area businesses and residents impacted by area street closures.

3. Require applications to be filed no later than ten business days prior to the event. Applications filed after this deadline will not be accepted. Applications filed less than thirty days, but more than ten days, prior to the event, will require an additional $75 administrative fee to expedite the application review. Approximately sixty-five percent (65%) of the applications received are filed less than thirty days prior to the event. Late applications require additional staff time to expedite approvals, inspections and issuance of licenses.

4. Clarify issues regarding activities at churches and schools which require a permit. Amendments do not require permits for school and church sponsored activities.

5. Clarify the process for parks to be closed and gated for community events. Amendments recognize changes to Chapter 9.03 regarding park conduct which allow all City parks to be closed with City Council approval.

6. Increase the attendance requirement for events on public property from fifty to one hundred people to require a permit to be issued.

7. Clarify process for appeal of revocation or denial of permit. The appeal will require a fee of $100. Appeal fee assists in off-setting staff time of multiple departments to prepare for appeal and time to testify at appeal. Estimated that staff costs exceeded $500 dollars for most recent appeal of denial of community event license.

8. The proposed amendments will not go into effect until January 1, 2011, so events scheduled over the summer months will not be affected.

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Financial Considerations: The proposed amendments will provide additional revenue to offset staff costs in processing and reviewing applications and performing necessary inspections. Staff time required to approve events based on the complexity of the event can range from between a minimum of two (2) to four (4) hours to a maximum of forty (40) hours. Approvals are required from a number of departments which range from low to high level staff management review.

Goal Impact: Quality of Life. The proposed ordinances will provide a coordinated process for managing community events occurring on public and private property within the City.

Legal Considerations: The ordinance has been prepared and reviewed by the Law Department and has been approved as to form.

Recommendations/Actions: It is recommended that the ordinance be placed on first reading.

Attachment: Ordinance.

First Published in The Wichita Eagle on June 25, 2010

06/02/2010

ORDINANCE NO. 48-757

AN ORDINANCE AMENDING SECTIONS 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065,3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 AND 10.04.130; CREATING SECTION 3.11.035OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO COMMUNITY EVENTS AND OBSTRUCTING STREETS AND SIDEWALKS AND REPEALING THE ORIGINALS OF SECTIONS 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065, 3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 AND 10.4.130 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 3.11.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Definitions.** (a) '*Applicant*' means the person who has filed a written application for a community event or street closure that is responsible for conducting the event and the responsible organization, corporation or other group on whose behalf the individual is requesting the permit.

(b) '*Chief of Police'* means the Chief of Police for the City of Wichita and his or her designee.

(c) '*Church'* means private property utilized on a regular basis, but in no case less than a weekly basis, for conducting classes and/or worship services including, without limitation, a church, synagogue or mosque.

(d) '*City'* means the City of Wichita.

(e) '*Community event"* means:

(1) An outdoor event on public property with an expected attendance, for the duration of the event, of one hundred (100) or more persons, organized for a particular and limited purpose and time;

(2) Outdoor events on private property or which occur in City of Wichita parks with an expected attendance for the duration of the event of two hundred fifty (250) or more people, organized for a particular and limited purpose and time.

Such events shall include, but not be limited to: fun runs, roadway foot races, fundraising walks, bikeathons, carnivals, festivals, community celebrations, shows, exhibitions, circuses and fairs. Such term shall not include events, other than fun runs or races, occurring solely on sidewalks or public rights-of-way immediately adjacent to public streets.

(f) '*Community Event Coordinator'* means the Manager of Arts and Cultural Services or his or her designee.

(g) '*Extraordinary police services'* means responsive police services which are in addition to and in excess of the normal police services provided to the location or off-site as a direct result of the event.

(h) '*Fire Chief*' means the Fire Chief for the City of Wichita or his or her designee.

(i) '*Park Property*' means all grounds, roadways and land acquired and owned by the City, and all grounds, roadways and land owned by the Board

of Park Commissioners of the City of Wichita, Kansas, which are designated for use as a park or recreational facility by the City Council and are under the management of the Department of Park and recreation of the City of Wichita,

(j) ‘*Permit holder’* means the person who has been issued a community event permit by the City of Wichita.

(k) ‘*Person’* shall mean a natural person or a legal entity such as, but not limited to an individual, firm, association, joint stock company, partnership or corporation.

(l) ‘*Private property’* means all property that is located within the boundaries of the City, except for property that is owned by the City.

(m) ‘*Public property’* means any dedicated or undedicated public land, outdoor park and outdoor recreational facilities, streets, highways, municipal parking lots, parkways or alleys, public spaces and rights-of-way within the City.

(n) ‘*Street’ or ‘highway’* means the entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word "highway" or the word "street" is used in this title, it means street, avenue, boulevard, thoroughfare, trafficway, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

(o) ‘*Superintendent of Central Inspection’* means the Superintendent of Central Inspection for the City of Wichita or his or her designee.

(p) '*Temporary Entertainment District'* means a defined area, which includes city streets and public sidewalks, on which the City Council has authorized the sale, possession or consumption of alcoholic liquor for a specified period of time, during a community event which has been properly licensed under this chapter."

SECTION 2. Section 3.11.035 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Enforcement.** The Wichita Police Department, the Wichita Fire Department and the Office of Central Inspection and authorized representatives of such departments shall be responsible for the enforcement of all provisions of this Code."

SECTION 3. Section 3.11.038 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Exceptions.** With the exception of Section 3.11.050 regarding street closures, the provisions of this Chapter shall not apply to the following activities:

1. Community events conducted by the City of Wichita.

2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.

3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.

4. Outdoor events occurring at permanent amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.

5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.

6. Outdoor events held at a members-only facility where no extraordinary police services are required.

7. Events held entirely inside the Lawrence-Dumont Stadium.

8. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.

9. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.

10. Performances of street performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.

11. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.

12. Events held at a private residence or in a residential neighborhood by persons residing in that neighborhood where no admission is charged, and no extraordinary police services are required.

13. Outdoor events conducted by or on behalf of a church, public or private schools, colleges or universities, when conducted entirely on the property of such church, school, college or university, and where no extraordinary police services are required.

14. Event held entirely on the grounds of Botanica, the Wichita Gardens, City Arts, Exploration Place, Kansas Aviation Museum, Kansas Firefighters Museum, Mid-America All Indian Center, Old Cowtown Museum, Wichita Area Treatment Education and Remediation Center (WATER), Wichita-Sedgwick County Historical Museum, and Wichita Art Museum."

SECTION 4. Section 3.11.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Authority of the community events coordinator. The Community Events Coordinator is authorized to:

(a) Administer and apply this Chapter;

(b) Represent the City, under the authority of the City Manager, in discussions and in establishing agreements with the applicant;

(c) Establish, under the authority of the City Manager, any implementing regulations/guidelines consistent with this Chapter, and other provisions of the Municipal Code applicable to the event.

(d) Review applications for community event permits.

(e) Deny applications for community events.

(f) Issue community event permits."

SECTION 5. Section 3.11.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Permit required.** (a) It shall be unlawful for any person to conduct a community event without a community event permit as required by this Chapter.

(b) It shall be unlawful for the owner of any private property to rent, lease or otherwise allow the use of such property for a community event which is not properly licensed as required by this Chapter.

(c) The issuance of a community permit shall not negate the responsibility of the permit holder to acquire all other necessary and applicable licenses or permits which may be required for the event."

SECTION 6. Section 3.11.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Application.** (a) To receive a community event permit, the applicant must file a completed community event application with the Manager of Arts and Cultural Services, or other designated representative, on a form provided by the City. Incomplete applications will not be accepted. The applicant must provide the following information:

(1) The type of proposed use, event, or activity; i.e., fun run, carnival, festival;

(2) The street or other public or private property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity;

(3) The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity;

(4) The name, address and telephone number of the person, entity or organization sponsoring or conducting the proposed event;

(5) The name, address and telephone number of the person or persons to be contacted regarding the application or permit;

(6) The number of past participants who attended previous events sponsored by the applicant, if available;

(7) The maximum number of persons which the applicant shall permit to attend at any time;

(8) Whether alcohol or cereal malt beverages will be available at the event;

(9) The applicant shall submit a site plan which includes:

(a) Any plans for fencing, and the size and location of the gates contained in such fence;

(b) The plans for supplying potable water, including the source, amount available and location of outlets;

(c) The placement of any stages;

(d) A map of the event identifying any and all street closures and placement of any barricades, with a designation of the types of barricades to be used;

(e) The plans for providing toilet and lavatory facilities, including the source, number and location, type, and the means of disposing of waste deposited;

(f) The plans for collection and disposing of solid waste material;

(g) The plans, if any, to illuminate the location of the community event, including the source and amount of power and the location of lamps;

(h) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots and any shuttle service;

(i) The plans for sound and sound amplification, if any, including number, location and power of amplifiers and speakers;

(j) The placement and size of any signage for the event;

(k) The plans for seating, tables, bleachers or seating facilities;

(l) The plans, location, and fencing for any beer gardens or other areas serving cereal malt beverages;

(m) The plans for electrical power and generators, if applicable;

(n) The plans and location of any tents or canopies and the size of any such tent or canopy;

(o) The plans and location of any portable amusement park or inflatable rides;

(p) The plans and locations, if any, where alcohol or cereal malt beverage will be sold or consumed.

(10) Security. All security must be provided by certified law enforcement officers and/or approved private security firms licensed pursuant to Chapter 3.72 of the Code of the City of Wichita. The applicant shall be responsible for all costs incurred in providing security for the event;

(11) The plans for food and beverage concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers, if applicable;

(12) The plans and specific description for each of any other type of vendor or amusement or entertainment provider who will be allowed to operate on the grounds, including the names and addresses of such vendors and their license or permit numbers, if any;

(13) Proof of liability insurance for the event as required by Section 3.11.130;

(14) Receipt for payment of the application fee as set forth in Section 3.11.070.

(b) The Chief of Police shall establish a formula for determining the minimum number of officers necessary to provide adequate security for the event. The criteria set forth by the Chief shall be the sole criteria utilized in determining the security necessary for the specific event. In establishing the formula, the following criteria shall be utilized by the Chief of Police:

(1) Number of event participants;

(2) Number of past event participants, if available;

(3) Whether alcohol is served or sold at the event;

(4) The time and duration of the event;

(5) Location or venue of the event;

(6) Number of street closures required for the event;

(7) Number of private security officers employed for the event;

(8) Whether admission is charged for the event;

(9) Size of area where alcohol is served;

(10) Means of ingress and egress to the event.

In determining the amount of officers needed to provide security for an event, the Chief of Police shall not consider the content of the applicant's speech, the measure of hostility likely to be created by the applicant's speech or the response of others who may oppose the event.

(c) All applications must be complete, including payment of the application and community event licensing fees, and submitted in accordance with the time limits established by Section 3.11.070."

SECTION 7. Section 3.11.065 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Regulations for alcohol consumption or sale at community events or in temporary entertainment districts. (a) Any applicant, who desires to sell or allow the consumption of alcoholic liquor or cereal malt beverage at a community event, shall submit an application to the Community Event Coordinator for the sale or consumption of such alcoholic liquor or cereal malt beverages at such community event or in a temporary entertainment district.

(b) Such written application must be made on a form provided by the Community Event Coordinator. The application must be submitted to the Community Event Coordinator not less than forty-five (45) days before the date of the proposed community event or temporary entertainment district.

(c) The written application shall contain the following information:

(1) The name and address of the applicant;

(2) The dates and times when alcoholic liquor or cereal malt beverages will be served at such event;

(3) All necessary and applicable state and city licenses and/or permits for the sale of alcoholic liquor or cereal malt beverage at such event, or written documentation that an application is pending for such permits, or licenses;

(4) A detailed security plan;

(5) A plan as to how the event promoter will prevent the off-premises consumption of alcohol and the consumption of alcohol by minors;

(6) A detailed site map indicating:

(a) Entry and exit points to the event venue(s);

(b) Description of the signage, barriers or maps which will be used to designate the area in which alcoholic liquor or cereal malt beverages may be consumed;

(c) The number and exact locations of all alcoholic liquor or cereal malt beverage sale/distribution booths;

(d) The location of any licensed drinking establishments that desire to participate in the temporary entertainment district, and a designation of the area of the licensed premises of such drinking establishment(s) which have been extended into the temporary entertainment district.

(7) Whether entry to the event or temporary entertainment district is restricted to invited guests, or open to the public;

(8) The type of alcoholic liquor or cereal malt beverage to be sold or dispensed and the means or method which will be used to sell, dispense or distribute the alcohol to event attendees;

(9) The identity of the on-site supervisor of the alcoholic liquor or cereal malt beverage service;

(10) The name, address and licensee of any drinking establishment, which is adjacent to the event and which has extended its licensed premises into the temporary entertainment district if such event is occurring on the public streets and sidewalks of the City of Wichita. Only those drinking establishments listed on the community event application will be granted approval by the City Council to utilize the city streets, sidewalks or other public property for the extension of their licensed premises;

(11) The name and address of any adjacent businesses which are to be included in the event area or temporary entertainment district;

(12) A list of streets and or street rights-of-way to be closed to motor vehicle traffic for such event or temporary entertainment district and the dates and times for such street closures;

(13) If signs are to be used to designate areas were alcoholic liquor or cereal malt beverage may be consumed, a diagram showing the number, size and location of such signs.

(d) The City Council shall review written applications for temporary entertainment districts and may, by resolution, authorize the possession, sale and/or consumption of alcoholic liquor on streets which have been closed to motor vehicle traffic and sidewalks in the designated temporary entertainment

district. In determining if approval should be given, the City Council shall consider those factors set forth in Section 3.11.080 of the Code of the City of Wichita, Kansas.

(e) Approval by the City Council, pursuant to this section, shall not be required for community events held on locations exempted from the prohibitions of consuming alcohol in public, as designated by Section 4.04.045 of the Code of the City of Wichita or those events which occur on private property.

(f) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are to be served in distinctively different containers than those in which non-alcoholic drinks are served.

(g) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are not to be sold or served in pitchers, buckets or carafes and no person is to be served or allowed to purchase more than two alcoholic drinks at the same time.

(h) Alcoholic liquor or cereal malt beverages shall not be served, sold or consumed in glass bottles, glass containers or glass vessels at a community event or in a temporary entertainment district.

(i) If multiple alcoholic liquor or cereal malt beverage vendors or licensees are participating in a community event or temporary entertainment district, each vendor or licensee must serve their alcoholic liquor or cereal malt beverage in distinctive containers which identify such vendor or licensee.

(j) It shall be unlawful for any person, at a community event or in a temporary entertainment district, to sell, serve or allow the consumption of alcoholic liquor or cereal malt beverages to or by any individual who is not wearing a wristband or other identifying device to indicate that the individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(k) It shall be unlawful for any person to possess or consume alcoholic liquor or cereal malt beverages at a community event or in a temporary entertainment district unless such person is wearing a wristband to indicate that such individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(l) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within a temporary entertainment district without obtaining the approval of the City Council and any and all necessary state and local permits for the sale of such alcoholic liquor."

SECTION 8. Section 3.11.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Fees.** (a) All applications for a community event license shall include an application fee of twenty-five dollars ($25.00) which shall not be refundable.

(b) All applicants for events whether held on private or public property shall be responsible for any applications, fees, licenses, permits and any rental

fees which may be required based upon the scope and nature of event. The City Manager shall establish a schedule of fees for special events. Such schedule of fees shall be approved by a resolution of the City Council.

(c) No application~~s~~ shall be accepted by the Community Events Coordinator less than ten (10) business days prior to the proposed event.

(d) Applications for a community event submitted less than thirty (30) business days, but more than ten (10) business days prior to a proposed event require an additional administrative fee of seventy-five dollars ($75.00) to expedite the application."

SECTION 9. Section 3.11.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Review Process. Subject to Section 3.11.090, the Community Events Coordinator shall approve a community event permit if it is determined that all of the following criteria have been met:

(a) The event will not obstruct the operation of emergency vehicles or equipment in or through the particular permit area;

(b) The proposed event does not present a safety, noise, or traffic hazard;

(c) The proposed event conforms to regulations regarding the use or allowable number of participants for the proposed venue, location, or site; and

(d) The proposed event does not violate any provisions of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States;

(e) If the proposed event is to occur on park property, the event conforms to regulations of the Board of Park Commissioners;

(f) If the event requires the closure of public streets, such street closures have been approved by the City Council;

(g) If the event requests exclusive use of park property, such request has been approved by the City Council pursuant to Section 9.03.170 of the Code of the City of Wichita;

(h) In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event."

SECTION 10. Section 3.11.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follow:

"Denial of permit. The Community Events Coordinator may deny an application for a Community Events Permit if he or she finds any of the following:

(a) One or more of the approval criteria specified in Section 3.11.080 is not met;

(b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(c) The application is incomplete, does not include payment of required fees, or does not contain the information required by this Chapter;

(d) The application does not satisfy the requirements of this Chapter or administrative regulations adopted by the Community Events Coordinator;

(e) The applicant fails to comply with any conditions of approval including, but not limited to:

(1) Remittance of fees, charges or deposits,

(2) Proof of liability insurance required,

(3) Obtaining all other permits and licenses as required by the City Code for the proposed event.

(f) The applicant, in the last two years, has had a previous community event permit revoked for failure to comply with the terms or conditions of the permit, or for violations of the ordinances of the City of Wichita.

(g) The applicant, in the last two years, has organized a community event which did not conform to the plans and application submitted to the Community Events Coordinator or which failed to comply with any conditions for such event placed on the event by the Community Event Coordinator.

(h) The proposed event would be in violation of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States.

(i) The event fails to conform to regulations regarding the use and allowable number of participants for the proposed venue, location or site.

(j) The proposed event fails to conform to regulations adopted by the Director of Parks and Recreation.

(k) The applicant, event vendors or participants have failed to comply with the terms and conditions of a prior community event permit.

(l) The applicant, within the last two years, has failed to obtain the appropriate permits and licenses for a previous community event.

(m) The applicant demonstrates an unwillingness or inability to conduct the proposed event pursuant to the terms of this chapter.

(n) The City does not have the necessary resources to accommodate the event because of its locations and/or duration.

(o) The application was not filed more than ten (10) business days prior to the proposed event with the Community Event Coordinator.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application."

SECTION 11. Section 3.11.105 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Revocation of permit--Notice of hearing.** (a) Any permit issued under this chapter may be revoked by the Community Event Coordinator, the Chief of Police, Fire Chief or Superintendent of Central Inspection after written notice, if the permit holder has (1) failed to pay the permit fee, (2) violated any

provision of this chapter, (3) becomes ineligible for a permit because of any of the provisions of this chapter, or (4) the permit holder has given a false statement as to a material fact submitted to the Community Event Coordinator during the application process.

(b) A permit may also be revoked if: (1) the event fails to conform to the terms and conditions of the permit, (2) the event is in violation of the ordinances of the City of Wichita, the law of the State of Kansas or, the laws of the United States, (3) the event has failed to obtain the appropriate permits and licenses for the event or (4) the event presents a safety, noise or traffic hazard.

(c) The filing of charges or a conviction in a court of law is not required to establish that the permit holder has violated the terms and conditions of this Chapter or other law. However, a certified copy of conviction from any local or state court for such violation is prima facia evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

SECTION12. Section 3.11.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Appeal procedure. (a) Any applicant or permit holder aggrieved by the denial or revocation of a community event permit may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Community Events Coordinator. The Notice of Appeal shall specify:

(1) the name and address of the appellant;

(2) the date of application;

(3) the date of the denial or revocation of the permit;

(4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of $100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the denial of the permit until the matter is heard by the City Council.

(c) The City Council may approve, overrule or modify the decision of the Community Events Coordinator.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay the denial or revocation of the permit by the City Council.

(e) In case of the revocation of any permit, no new permit shall be issued to such applicant or to any person acting on his or her behalf for a period of two years from the date of the revocation."

SECTION 13. Section 3.11.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Street closures. (a) All street closure requests, including those closures which are necessary as part of a community event or temporary entertainment district application must be approved by the City Council.

(b) The following requirements must be met before a street closure is approved:

1. A completed application for a street closure must be submitted to the Community Events Coordinator at least forty-five (45) days prior to the date of the proposed street closure. An administrative fee of twenty-five dollars ($25.00) shall accompany any application for a street closure. Such fee shall not be required for street closures as part of a block party as authorized by Section 3.11.220. This fee covers administrative expenses and notification of transit, ambulance, police and fire departments of the street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will provide proof that all property owners/residents have been notified by attaching to the application a statement signed by all affected property owners/resident listing the name, address and telephone number of the person contacted expressing their approval or disapproval of the street closure. Failure to notify any property owners/residents may result

in the denial of the application or require a change in the scheduled closing date.

3. The applicant must be the responsible party or event promoter for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

7. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

8. The applicant must allow city personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions given by police or fire officials in the lawful discharge of their duties must be obeyed.

9. If required, the applicant must hire and pay compensation for a Wichita Police Officer, who is a certified law enforcement officer, to direct traffic which must be re-routed due to the street closure.

(c) The licensee and any drinking establishment serving, selling or distributing alcoholic liquor on city streets or sidewalks which have been closed pursuant to this section, as a temporary entertainment district, shall meet with the community event coordinator and city staff, no less than seven (7) days prior to the event, to review security plans and procedures to be utilized by the vendors relating to the sale and consumption of alcoholic liquor."

SECTION 14. Section 3.11.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Penalties. (a) Any person who intentionally violates any of the provisions of this Chapter shall be guilty of a misdemeanor.

(b) Each day a violation exists shall constitute a separate offense."

SECTION 15. Section 10.04.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Obstructing streets and sidewalks by litter, goods, wares, etc.

It is unlawful for any person to obstruct any street, alley, public area, public right-of-way or sidewalk in the city by:

(a) piling, placing or maintaining thereon any filth, litter or any goods, wares or merchandise; or by

(b) placing or erecting any buildings or fence thereon; or

(c) placing any benches or seats for public use thereon, except when a street closure has been approved by the City Council pursuant to Section 3.11.150 of the Code of the City of Wichita .

This section specifically prohibits the using of any public sidewalk in the city for exhibiting goods, wares and merchandise except by special permit granted as provided in Section 10.04.131, and any person violating this section is guilty of a misdemeanor.

For the purposes of this section 'public right-of-way' shall mean the entire width of the area from property line to property line including that area between the roadway and the abutting private property line."

SECTION 14. The originals of Sections 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065, 3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 and 10.4.130 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective on January 1, 2011.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of June, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

First Published in The Wichita Eagle on _____

DELINEATED 06/02/2010

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065,3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 AND 10.04.130; CREATING SECTION 3.11.035OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO COMMUNITY EVENTS AND OBSTRUCTING STREETS AND SIDEWALKS AND REPEALING THE ORIGINALS OF SECTIONS 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065, 3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 AND 10.4.130 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 3.11.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Definitions.** (a) '*Applicant*' means the person who has filed a written application for a community event or street closure that is responsible for conducting the event and the responsible organization, corporation or other group on whose behalf the individual is requesting the permit.

(b) '*Chief of Police*' means the Chief of Police for the City of Wichita and his or her designee.

(c) '*Church'* means private property utilized on a regular basis, but in no case less than a weekly basis, for conducting classes and/or worship services including, without limitation, a church, synagogue or mosque.

(d) *'City'* means the City of Wichita.

~~(a)~~ (e) '*Community event"* means:

(1) An outdoor event on ~~City-owned~~ public property with an expected attendance for the duration of the event of ~~fifty (50)~~ one hundred (100) or more persons, organized for a particular and limited purpose and time;

(2) Outdoor events on private property or which occur in City of Wichita parks with an expected attendance for the duration of the event of two hundred fifty (250) or more people, organized for a particular and limited purpose and time.

Such events shall include, but not be limited to: ~~F~~fun runs, roadway foot races, fundraising walks, bikeathons, carnivals, festivals, community celebrations, shows, exhibitions, circuses and fairs. Such term shall not include events, other than fun runs or races, occurring solely on sidewalks or public rights-of-way immediately adjacent to public streets.

~~(b) '*Exceptions.* The provisions of this chapter shall not apply to:~~

~~1. Community events conducted by the City of Wichita.~~

~~2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.~~

~~3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.~~

~~4. Outdoor events occurring at amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.~~

~~5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.~~

~~6. Events, by a religious institution, conducted entirely on property owned or leased by a religious institution, when no extraordinary police services are required. Such institution must be organized under Internal Revenue Code 501(c)(3).~~

~~7. Outdoor events held at a members-only facility where no extraordinary police services are required.~~

~~8. Events held entirely inside the Lawrence-Dumont Stadium.~~

~~9. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.~~

~~10. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.~~

~~11. Garage or Miscellaneous sales as regulated by Chapter 3.44 of the Code of the City of Wichita.~~

~~12. Performances of Street Performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.~~

~~13. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.~~

~~14. Events held at a private residence or in a residential neighborhood where no admission is charged, and no extraordinary police services are required.~~

~~15. Outdoor events conducted entirely on the property of public or private schools, colleges or universities, where no extraordinary police services are required.~~

~~16. Event held entirely on the grounds of Botanica, the Wichita Gardens, City Arts, Exploration Place, Kansas Aviation Museum, Kansas Firefighters Museum, Mid-America All Indian Center, Old Cowtown Museum, Wichita Area Treatment Education and Remediation Center (WATER), Wichita-Sedgwick County Historical Museum, Wichita Art Museum, and the Wichita Boathouse/Kansas Sports Hall of Fame.~~

~~(c)~~ (f) *'Community Event Coordinator'* means the Manager of Arts and Cultural Services or his or her designee.

~~(d) *'Community Event Promoter'* means the person who is directly responsible for organizing and/or conducting the event.~~

~~(e)~~ (g) *'Extraordinary police services'* means responsive police services which are in addition to and in excess of the normal police services provided to the location or off-site as a direct result of the event.

(h) *'Fire Chief'* means the Fire Chief for the City of Wichita or his or her designee.

(i) *'Park Property'* means all grounds, roadways and land acquired and owned by the City, and all grounds, roadways and land owned by the Board of Park Commissioners of the City of Wichita, Kansas, which are designated for use as a park or recreational facility by the City Council and are under the management of the Department of Park and recreation of the City of Wichita,

(j) *'Permit holder'* means the person who has been issued a community event permit by the City of Wichita.

~~(f)~~ (k) *'Person'* shall mean a natural person or a legal entity such as, but not limited to an individual, firm, association, joint stock company, partnership or corporation.

(l) *'Private property'* means all property that is located within the boundaries of the City, except for property that is owned by the City.

(m) *'Public property'* means any dedicated or undedicated public land, outdoor park and outdoor recreational facilities, streets, highways, municipal parking lots, parkways or alleys, public spaces and rights-of-way within the City.

~~(g)~~ (n) *'Street' or 'highway'* means the entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word "highway" or the word "street" is used in this title, it means street, avenue, boulevard, thoroughfare, trafficway, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

(o) *'Superintendent of Central Inspection'* means the Superintendent of Central Inspection for the City of Wichita or his or her designee.

~~(h)~~ (p) *'Temporary Entertainment District'* means a defined area, which includes city streets and public sidewalks, on which the City Council has authorized the sale, possession or consumption of alcoholic liquor for a specified period of time, during a community event which has been properly licensed under this chapter."

SECTION 2. Section 3.11.035 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Enforcement.** The Wichita Police Department, the Wichita Fire Department and the Office of Central Inspection and authorized representatives of

such departments shall be responsible for the enforcement of all provisions of this Code."

SECTION 3. Section 3.11.038 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Exceptions.** With the exception of Section 3.11.050 regarding street closures, the provisions of this Chapter shall not apply to the following activities:

1. Community events conducted by the City of Wichita.

2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.

3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.

4. Outdoor events occurring at permanent amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.

5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.

6. Outdoor events held at a members-only facility where no extraordinary police services are required.

7. Events held entirely inside the Lawrence-Dumont Stadium.

8. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.

9. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.

10. Performances of street performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.

11. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.

12. Events held at a private residence or in a residential neighborhood by persons residing in that neighborhood where no admission is charged, and no extraordinary police services are required.

13. Outdoor events conducted by or on behalf of a church, public or private schools, colleges or universities, when conducted entirely on the property of such church, school, college or university, and where no extraordinary police services are required.

14. Event held entirely on the grounds of Botanica, the Wichita Gardens, City Arts, Exploration Place, Kansas Aviation Museum, Kansas Firefighters Museum, Mid-America All Indian Center, Old Cowtown Museum, Wichita Area Treatment Education and Remediation Center (WATER), Wichita-Sedgwick County Historical Museum, and Wichita Art Museum."

SECTION 4. Section 3.11.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Authority of the community events coordinator. The Community Events Coordinator is authorized to:

(a) Administer and apply this Chapter;

(b) Represent the City, under the authority of the City Manager, in discussions and in establishing agreements with the ~~person(s) who represent the event~~ applicant;

(c) Establish, under the authority of the City Manager, any implementing regulations/guidelines consistent with this Chapter, and other provisions of the Municipal Code applicable to the event.

(d) Review applications for community event permits.

(e) Deny applications for community events.

(f) Issue community event permits."

SECTION 5. Section 3.11.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Permit required.** ~~Except as otherwise provided by this Chapter or other applicable law, a Community Event Permit shall be required to be obtained from the City for any community event as defined by Section 3.11.020.~~

(a) It shall be unlawful for any person to conduct a community event without a community event permit as required by this Chapter.

(b) It shall be unlawful for the owner of any private property to rent, lease or otherwise allow the use of such property for a community event which is not properly licensed as required by this Chapter.

(c) The issuance of a community permit shall not negate the responsibility of the permit holder to acquire all other necessary and applicable licenses or permits which may be required for the event."

SECTION 6. Section 3.11.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Application.** (a) To receive a community event permit, the ~~event promoter~~ applicant must file a completed community event application with the Manager of Arts and Cultural Services, or other designated representative, on a form provided by the City. Incomplete applications will not be accepted. The applicant must provide the following information:

(1) The type of proposed use, event, or activity; i.e., fun run, carnival, festival;

(2) The street or other public or private property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity;

(3) The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity;

(4) The name, address and telephone number of the person, entity or organization sponsoring or conducting the proposed event;

(5) The name, address and telephone number of the person or persons to be contacted regarding the application or permit;

(6) The number of past participants who attended previous events sponsored by the applicant, if available;

(7) The maximum number of persons which the applicant shall permit to attend at any time;

(8) Whether alcohol or cereal malt beverages will be available at the event;

(9) The applicant shall submit a site plan which includes:

(a) Any plans for fencing, and the size and location of the gates contained in such fence;

(b) The plans for supplying potable water, including the source, amount available and location of outlets;

(c) The placement of any stages;

(d) A map of the event identifying any and all street closures and placement of any barricades, with a designation of the types of barricades to be used;

(e) The plans for providing toilet and lavatory facilities, including the source, number and location, type, and the means of disposing of waste deposited;

(f) The plans for collection and disposing of solid waste material;

(g) The plans, if any, to illuminate the location of the community event, including the source and amount of power and the location of lamps;

(h) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots and any shuttle service;

(i) The plans for sound and sound amplification, if any, including number, location and power of amplifiers and speakers;

(j) The placement and size of any signage for the event;

(k) The plans for seating, tables, bleachers or seating facilities;

(l) The plans, location, and fencing for any beer gardens or other areas serving cereal malt beverages;

(m) The plans for electrical power and generators, if applicable;

(n) The plans and location of any tents or canopies and the size of any such tent or canopy;

(o) The plans and location of any portable amusement park or inflatable rides;

(p) The plans and locations, if any, where alcohol or cereal malt beverage will be sold or consumed.

(10) Security. All security must be provided by certified law enforcement officers and/or approved private security firms licensed pursuant to Chapter 3.72 of the Code of the City of Wichita. The applicant shall be responsible for all costs incurred in providing security for the event;

(11) The plans for food and beverage concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers, if applicable;

(12) The plans and specific description for each of any other type of vendor or amusement or entertainment provider who will be allowed to operate on the grounds, including the names and addresses of such vendors and their license or permit numbers, if any;

(13) Proof of liability insurance for the event as required by Section 3.11.130;

(14) Receipt for payment of the application fee as set forth in Section 3.11.070.

(b) The Chief of Police shall establish a formula for determining the minimum number of officers necessary to provide adequate security for the event.

The criteria set forth by the Chief shall be the sole criteria utilized in determining the security necessary for the specific event. In establishing the formula, the following criteria shall be utilized by the Chief of Police:

(1) Number of event participants;

(2) Number of past event participants, if available;

(3) Whether alcohol is served or sold at the event;

(4) The time and duration of the event;

(5) Location or venue of the event;

(6) Number of street closures required for the event;

(7) Number of private security officers employed for the event;

(8) Whether admission is charged for the event;

(9) Size of area where alcohol is served;

(10) Means of ingress and egress to the event.

In determining the amount of officers needed to provide security for an event, the Chief of Police shall not consider the content of the applicant's speech, the measure of hostility likely to be created by the applicant's speech or the response of others who may oppose the event.

(c) All applications must be complete, including payment of the application and community event licensing fees, and submitted in accordance with the time limits established by Section 3.11.070."

SECTION 7. Section 3.11.065 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Regulations for alcohol consumption or sale at community events or in temporary entertainment districts. (a) Any ~~community event promoter~~ applicant, who desires to sell or allow the consumption of alcoholic liquor or cereal malt beverage at a community event, shall submit an application to the Community Event Coordinator for the sale or consumption of such alcoholic liquor or cereal malt beverages at such community event or in a temporary entertainment district.

(b) Such written application must be made on a form provided by the Community Event Coordinator. The application must be submitted to the Community Event Coordinator not less than forty-five (45) days before the date of the proposed community event or temporary entertainment district.

(c) The written application shall contain the following information:

(1) The name and address of the ~~event promoter~~ applicant;

(2) The dates and times when alcoholic liquor or cereal malt beverages will be served at such event;

(3) ~~For temporary entertainment districts, a copy of the temporary permit issued by the State of Kansas, pursuant to K.S.A. 41-2645 and the City of Wichita, pursuant to Section 4.16.170 of the Code of the City of Wichita.~~ All necessary and applicable state and city licenses

and/or permits for the sale of alcoholic liquor or cereal malt beverage at such event, or written documentation that an application is pending for such ~~temporary~~ permits, or licenses;

~~(4) A copy of the caterer's license issued by the State of Kansas for any individual responsible for the sale of alcoholic liquor at such event;~~

~~(5)~~ (4) A detailed security plan;

~~(6)~~ (5) A plan as to how the event promoter will prevent the off-premises consumption of alcohol and the consumption of alcohol by minors;

~~(7)~~ (6) A detailed site map indicating:

(a) Entry and exit points to the event venue(s);

(b) Description of the signage, barriers or maps which will be used to designate the area in which alcoholic liquor or cereal malt beverages may be consumed;

(c) The number and exact locations of all alcoholic liquor or cereal malt beverage sale/distribution booths;

(d) The location of any licensed drinking establishments that desire to participate in the temporary entertainment district, and a designation of the area of the licensed premises of such drinking establishment(s) which have been extended into the temporary entertainment district;

~~(8)~~ (7) Whether entry to the event or temporary entertainment district is restricted to invited guests, or open to the public;

~~(9)~~ (8) The type of alcoholic liquor or cereal malt beverage to be sold or dispensed and the means or method which will be used to sell, dispense or distribute the alcohol to event attendees;

~~(10)~~ (9) The identity of the on-site supervisor of the alcoholic liquor or cereal malt beverage service;

~~(11)~~ (10) The name, address and licensee of any drinking establishment, which is adjacent to the event and which has extended its licensed premises into the temporary entertainment district if such event is occurring on the public streets and sidewalks of the City of Wichita. Only those drinking establishments listed on the community event application will be granted approval by the City Council to utilize the city streets, sidewalks or other public property for the extension of their licensed premises;

~~(12)~~ (11) The name and address of any adjacent businesses which are to be included in the event area or temporary entertainment district;

(~~13~~) (12) A list of streets and or street rights-of-way to be closed to motor vehicle traffic for such event or temporary entertainment district and the dates and times for such street closures;

(~~14~~) (13) If signs are to be used to designate areas were alcoholic liquor or cereal malt beverage may be consumed, a diagram showing the number, size and location of such signs.

(d) The City Council shall review written applications for temporary entertainment districts and may, by resolution, authorize the possession, sale and/or consumption of alcoholic liquor on streets which have been closed to motor vehicle traffic and sidewalks in the designated temporary entertainment district. In determining if approval should be given, the City Council shall consider those factors set forth in Section 3.11.080 of the Code of the City of Wichita, Kansas.

(e) Approval by the City Council, pursuant to this section, shall not be required for community events held on locations exempted from the prohibitions of consuming alcohol in public, as designated by Section 4.04.045 of the Code of the City of Wichita or those events which occur on private property.

(f) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are to be served in distinctively different containers than those in which non-alcoholic drinks are served.

(g) Alcoholic liquor or cereal malt beverages served at a community event or in a temporary entertainment district are not to be sold or served in pitchers, buckets or carafes and no person is to be served or allowed to purchase more than two alcoholic drinks at the same time.

(h) Alcoholic liquor or cereal malt beverages shall not be served, sold or consumed in glass bottles, glass containers or glass vessels at a community event or in a temporary entertainment district.

(i) If multiple alcoholic liquor or cereal malt beverage vendors or licensees are participating in a community event or temporary entertainment district, each vendor or licensee must serve their alcoholic liquor or cereal malt beverage in distinctive containers which identify such vendor or licensee.

(j) It shall be unlawful for any person, at a community event or in a temporary entertainment district, to sell, serve or allow the consumption of alcoholic liquor or cereal malt beverages to or by any individual who is not wearing a wristband or other identifying device to indicate that the individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(k) It shall be unlawful for any person to possess or consume alcoholic liquor or cereal malt beverages at a community event or in a temporary entertainment district unless such person is wearing a wristband to indicate that such individual is the legal age for consumption of alcoholic liquor or cereal malt beverage.

(l) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within a temporary entertainment district without obtaining the approval of the City

Council and any and all necessary state and local permits for the sale of such alcoholic liquor."

SECTION 8. Section 3.11.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Fees.** (a) All applications for a community event license shall include an application fee of twenty-five dollars ($25.00) which shall not be refundable.

(b) All applicants for events whether held on private or public property shall be responsible for any applications, fees, licenses, permits and any rental fees which may be required based upon the scope and nature of event. The City Manager shall establish a schedule of fees for special events. Such schedule of fees shall be approved by a resolution of the City Council.

(c) No ~~A~~application~~s~~ ~~may~~ shall ~~not~~ be accepted by the Community Events Coordinator less than ~~thirty (30)~~ ten (10) business days prior to the proposed event.

(d) Applications for a community event submitted less than thirty (30) business days, but more than ten (10) business days prior to a proposed event require an additional administrative fee of seventy-five dollars ($75.00) to expedite the application."

SECTION 9. Section 3.11.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Review Process. Subject to Section 3.11.090, the Community Events Coordinator shall approve a community event permit if it is determined that all of the following criteria have been met:

(a) The event will not obstruct the operation of emergency vehicles or equipment in or through the particular permit area;

(b) The proposed event does not present a safety, noise, or traffic hazard;

(c) The proposed event conforms to regulations regarding the use or allowable number of participants for the proposed venue, location, or site; and

(d) The proposed event does not violate any provisions of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States;

(e) If the proposed event is to occur on park property, the event conforms to regulations of the Board of Park Commissioners;

(f) If the event requires the closure of public streets, such street closures have been approved by the City Council;

(g) If the event requests exclusive use of ~~A. Price Woodard Park~~ park property, such request ~~have~~ has been approved by the City Council pursuant to Section ~~9.04.180~~ 9.03.170 of the Code of the City of Wichita;

(h) In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event."

SECTION 10. Section 3.11.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follow:

"Denial~~/revocation~~ of permit. The Community Events Coordinator ~~shall~~ may deny an application for a Community Events Permit if he or she finds any of the following:

(a) One or more of the approval criteria specified in Section 3.11.080 is not met;

(b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(c) The application is incomplete, does not include payment of required fees, or does not contain the information required by this Chapter;

(d) The application does not satisfy the requirements of this Chapter or administrative regulations adopted by the Community Events Coordinator;

(e) The applicant fails to comply with any conditions of approval including, but not limited to:

(1) Remittance of fees, charges or deposits,

(2) Proof of liability insurance required,

(3) Obtaining all other permits and licenses as required by the City Code for the proposed event.

(f) The applicant, in the last ~~five~~ two years, has had a previous community event permit revoked for failure to comply with the terms or conditions of the permit, or for violations of the ordinances of the City of Wichita.

(g) The applicant, in the last ~~five~~ two years, has organized a community event which did not conform to the plans and application submitted to the Community Events Coordinator or which failed to comply with any conditions for such event placed on the event by the Community Event Coordinator.

(h) The proposed event would be in violation of the Code of the City of Wichita, the laws of the State of Kansas or the laws of the United States.

(i) The event fails to conform to regulations regarding the use and allowable number of participants for the proposed venue, location or site.

(j) The proposed event fails to conform to regulations adopted by the ~~Board of Park Commissioners~~ Director of Parks and Recreation.

(k) The applicant, event vendors or participants have failed to comply with the terms and conditions of a prior community event permit.

(l) The applicant, within the last two years, has failed to obtain the appropriate permits and licenses for a previous community event.

~~(n)~~ (m) The applicant demonstrates an unwillingness or inability to conduct the proposed event pursuant to the terms of this chapter.

~~(o)~~ (n) The City does not have the necessary resources to accommodate the event because of its locations and/or duration.

~~(p)~~ (o) The application was not filed more than ten (10) business days prior to the proposed event with the Community Event Coordinator.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application."

SECTION 11. Section 3.11.105 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Revocation of permit--Notice of hearing.** (a) Any permit issued under this chapter may be revoked by the Community Event Coordinator, the Chief of Police, Fire Chief or Superintendent of Central Inspection after written notice, if the permit holder has (1) failed to pay the permit fee, (2) violated any provision of this chapter, (3) becomes ineligible for a permit because of any of the provisions of this chapter, or (4) the permit holder has given a false statement as to a material fact submitted to the Community Event Coordinator during the application process.

(b) A permit may also be revoked if: (1) the event fails to conform to the terms and conditions of the permit, (2) the event is in violation of the ordinances of the City of Wichita, the law of the State of Kansas or, the laws of

the United States, (3) the event has failed to obtain the appropriate permits and licenses for the event or (4) the event presents a safety, noise or traffic hazard.

(c) The filing of charges or a conviction in a court of law is not required to establish that the permit holder has violated the terms and conditions of this Chapter or other law. However, a certified copy of conviction from any local or state court for such violation is prima facia evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

SECTION12. Section 3.11.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Appeal procedure. (a) Any applicant ~~for a permit under this chapter who has been administratively denied the issuance of a permit by the Community Events Coordinator shall have a right of appeal from the denial to the Wichita City Council by filing a written request therefore with the City Clerk. The notice of appeal must be filed with the City Clerk within five business days of the denial of such permit application. The appeal shall be heard at the next regularly scheduled meeting of the Council~~ or ~~licensee~~ permit holder aggrieved by the denial or revocation of a community event permit may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Community Events Coordinator. The Notice of Appeal shall specify:

(1) the name and address of the appellant;

(2) the date of application;

(3) the date of the denial or revocation of the permit;

(4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of $100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the denial of the permit until the matter is heard by the City Council.

(c) The City Council may approve ~~the denial,~~ overrule ~~the denial~~ or modify the ~~request for the permit~~ decision of the Community Events Coordinator.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay the denial or revocation of the permit by the City Council.

(e) In case of the revocation of any permit, no new permit shall be issued to such applicant or to any person acting on his or her behalf for a period of two years from the date of the revocation."

SECTION 13. Section 3.11.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Street closures. (a) ~~Any~~ All street closure~~s requested by a licensee or~~ requests, including those closures which are necessary as part of a community event or temporary entertainment district application must be approved by the City Council ~~prior to the issuance of the Community Event Permit by the Community Events Coordinator~~.

(b) The following requirements must be met before a street closure is approved:

1. ~~The applicant~~ A completed application for a street closure must be submitted to the Community Events Coordinator ~~a written request for the street closure~~ at least forty-five (45) days prior to the date of the proposed street closure. An administrative fee of twenty-five dollars ($25.00) shall accompany any application for a street closure. Such fee shall not be required for street closures as part of a block party as authorized by Section 3.11.220. This fee covers administrative expenses and notification of transit, ambulance, police and fire departments of the street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will provide proof that all property owners/residents have been

notified by attaching to the application a statement signed by all affected property owners/resident listing the name, address and telephone number of the person contacted expressing their approval or disapproval of the street closure. Failure to notify any property owners/residents may result in the denial of the application or require a change in the scheduled closing date.

3. The applicant must be the responsible party or event promoter for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

7. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

8. The applicant must allow city personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions

given by police or fire officials in the lawful discharge of their duties must be obeyed.

9. If required, the applicant must hire and pay compensation for a Wichita Police Officer, who is a certified law enforcement officer, to direct traffic which must be re-routed due to the street closure.

(c) The licensee and any drinking establishment serving, selling or distributing alcoholic liquor on city streets or sidewalks which have been closed pursuant to this section, as a temporary entertainment district, shall meet with the community event coordinator and city staff, no less than seven (7) days prior to the event, to review security plans and procedures to be utilized by the vendors relating to the sale and consumption of alcoholic liquor."

SECTION 14. Section 3.11.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Penalties. (a) Any person who intentionally violates any of the provisions of this Chapter shall be guilty of a misdemeanor.

(b) Each day a violation exists shall constitute a separate offense."

SECTION 15. Section 10.04.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Obstructing streets and sidewalks by litter, goods, wares, etc.

It is unlawful for any person to obstruct any street, alley, public area, public right-of-way or sidewalk in the city by:

(a) piling, placing or maintaining thereon any filth, ~~or~~ litter or any goods, wares or merchandise; or by

(b) placing or erecting any buildings or fence thereon; or

(c) ~~by~~ placing any benches or seats for public use thereon, except ~~as authorized by a community events permit issued pursuant to Chapter 3.11 of the Code of the City of Wichita~~ when a street closure has been approved by the City Council pursuant to Section 3.11.150 of the Code of the City of Wichita .

This section specifically prohibits the using of any public sidewalk in the city for exhibiting goods, wares and merchandise except by special permit granted as provided in Section 10.04.131, and any person violating this section is guilty of a misdemeanor.

For the purposes of this section 'public right-of-way' shall mean the entire width of the area from property line to property line including that area between the roadway and the abutting private property line."

SECTION 14. The originals of Sections 3.11.020, 3.11.040, 3.11.050, 3.11.060, 3.11.065, 3.11.070, 3.11.080, 3.11.090, 3.11.110, 3.11.150, 3.11.210 and 10.4.130 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective on January 1, 2011.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

Agenda Item No. III-8

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: 2010 State Justice Assistance Grant (JAG)

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Approve the grant application.

Background: The United States Department of Justice has directly allocated funding to the State of Kansas through the 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) process. Jurisdictions within the state are eligible to apply through a competitive process to obtain funding to support law enforcement activities. The application is due June 18, 2010.

Analysis: The Wichita Police Department has identified projects designed to proactively address public safety needs for the City of Wichita. The funding received from the Edward Byrne Memorial Justice Assistance Grant will be used to help the Wichita Police Department obtain necessary equipment and software. The acquisition of the equipment and services immediately follows the awarding of the grant.

Financial Considerations: The Wichita Police Department is applying for $350,000 in 2010 Edward Byrne Memorial Justice Assistance Grant funding. There is no local match requirement.

Police Equipment (radios, Tasers, shotguns)	$128,000
Technology enhancements and SPSS Crime Analysis Software	$40,000
Air Section Equipment needs	$88,000
Traffic Equipment (PBTs, radars, accident reconstruction system)	$94,000
Total	**$350,000**

Goal Impact: Under the City of Wichita's Safe and Secure Initiative, the grant funding will help to ensure the police department can continue its emphasis on the community policing philosophy through the use of technology to improve service and reduce costs. The Wichita Police Department's community policing philosophy stresses proactive and preventative law enforcement in partnership with citizens, in an effort to prevent, solve, and reduce crime, and address quality-of-life issues within the community.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the grant application.

Attachments: Project Narrative to be submitted with grant application.

PROJECT NARRATIVE (Attachment #1)

Prior Accomplishments

The City of Wichita has identified several key goals for the City of Wichita. One of the goals and associated indicators:

Safe and Secure Community

- Maintain and/or improve response times and the crime rate.
- Improve environmental health and community safety.
- Maintain and improve citizen perception of public safety.

In working towards this goal the Wichita Police Department strives to provide professional public safety services in partnership with citizens to identify, prevent and solve the problems of crime, fear of crime, social disorders and neighborhood decay, thereby improving the quality of life in our community.

Through the combined work of community citizens and its police department the City has enjoyed a relatively low rate of crime through 2008. A Chamber of Commerce survey shows that crime rate is the #1 quality of life concern of new businesses looking to relocate between venues. The current nationwide economic crisis has also caused citizens to worry even more about their safety.

The Wichita Police Department has developed a practical plan to ensure that consistent police services will be provided to the City of Wichita. A key element of this plan is the effective use of limited resources through innovation.

Problem Statement and Needs Assessment

The Wichita Police Department has identified projects designed to proactively address the public safety needs for the City of Wichita. The Department's goal is to maintain Wichita's status as one of the safest cities in the United States by maintaining and/or improving response times and crime rates, using the Community Policing Philosophy to focus on crime prevention and youth initiatives, enhancing traffic safety through education and enforcement, and maintaining and/or improve citizen perception of public safety.

Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide for the acquisition of safety and other police equipment and predictive software from SPSS. The acquisition of the equipment and services immediately follows the awarding of the grant.

Police Equipment: Portable radios are used to establish communication between the community and the police, through Emergency Communications. The current radios are nearing the end of their service life. Replacement parts are no longer available for repairs. Changes in frequency bands also require radios in older bands be replaced. The ability to effectively communicate with dispatch and among other officers is critical to the safety of police officers, and the enhancement of customer service to the community.

Within the force continuum, Tasers are a less-than-lethal level of force that allows officers to subdue violent suspects with minimal force, reducing injuries to both suspects and officers, and therefore actual and potential liability costs to the City. The department needs additional Tasers for the Field. Cost per Taser is approximately $815.00, plus a 4-year extended warranty of $180 and replacement cartridges at $22.00 each.

SPSS Software: The Wichita Police Department currently employs one Crime Analyst to provide analytical and predictive services to a department of 834; including 651 commissioned officers. Crime analysis is also requested by other police agencies, City Departments, and elected officials. Updating the Department's capabilities to provide predictive analysis through the use of SPSS predictive and statistical software will improve the Department's ability to economically and effectively focus limited resources on specific crime trends.

Air Section Equipment: Funds equipment for the one-unit helicopter Air Section that is not covered in the CIP or Department budget, including repairs to damaged and expired safety equipment.

Technology Equipment enhancement: Funds professional standards interview room equipment, power point projectors, laptop computers and associated equipment.

Traffic Equipment: The purchase of portable breath testers and radars will be used to enhance the Department's aggressive traffic safety program, designed to reduce traffic fatalities through targeted enforcement at high accident locations and selected sites. The Accident reconstruction system will allow investigators to diagram and reconstruct both injury and fatality accidents in addition to utilizing this equipment for diagramming major crime scenes throughout the City.

Proposed Grant Project Goal(s) and Objective(s)

Goal: Enhance Safety and Security by acquisition of necessary equipment.

Objective	Activities - Tasks	Person Responsible	Time Frame
1. Purchase specific items to enhance safety and security 2. Comply with all Departmental, City, State, and Federal Regulations for Purchasing 3. Track all expenditures and complete necessary reports	1. Obtain quotes for all equipment items in compliance with City policies. Once appropriate vendor is selected, complete Officer's Report to obtain Departmental approval to purchase. 2. Work with Department Accountant and Fiscal Analyst to purchase and pay for the equipment. 3. Track expenditures on a monthly basis and provide feedback to Department staff members on status.	1. Chief of Police will appoint appropriate person to oversee purchasing of each item 2. Captains and Deputy Chiefs will work with Associate Accountant and Fiscal Analyst 3. Fiscal Analyst	1-3: As soon as funds are awarded, Department executive staff members will meet to assign duties. Projected to be September, 2010.

Proposed Grant Project Performance Measures and Determining Results

1. Maintain clearance rates for all Part 1 crimes which equal or exceed the national average rate based on Federal Bureau of Investigation's 2007 percent of offense cleared by arrests of exceptional means for cities with a population between 250,000 and 499,000.

2. Track the number of moving citations issued Citywide.

3. Increase the level of predictive analysis provided to the Investigations and Patrol Bureaus related to Part 1 offenses.

4. Reduce response time to ad hoc requests for statistical and predictive analysis related to immediate community concerns and crime trends.

5. Track the number of requests made to the Planning Analysts, number of requests completed, and average time required to complete each request.

6. Track the number of investigations in which the Crime Scene Reconstruction System was utilized.

Proposed Grant Project Staffing Pattern

No additions or changes to current staffing patterns will be necessary to implement this project. The project's effectiveness will be monitored by the Wichita Police Department.

Proposed Grant Project Collaboration

The Wichita Police Department strives to work with agencies at both the local and state level to provide a safe and secure community. The project proposed will benefit other agencies in addition to the Wichita Police Department, with the ultimate goal of reducing crime and fear of crime in Wichita.

Civil Rights Contact Information

Susan Leiker
455 N. Main Street, 2nd Floor
Wichita, KS 67202
316-269-4723

DUNS Number and Current CCR

DUNS number: 043063460
Active in CCR; Registration valid until 05/04/2011

Current Audit Report

The audit was completed by:
Allen, Gibbs and Houlik, L.C.
301 N. main, Suite 1700
Wichita, KS 67202-4868

The last audit covers fiscal year ending December 31, 2008.
The audit was completed with an opinion issued on May 4, 2009.

Audit filed with:

1. Federal Audit Clearinghouse
2. Department of Housing and Urban Affairs

REVISED 06-14-2010

Agenda Item No. III-9.

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: 2010 Federal Justice Assistance Grant (JAG)

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Approve the grant application.

Background: The City of Wichita Police Department and Sedgwick County Sheriff's Office have received notification they are eligible to receive 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) funding. The allocations established by the Bureau of Justice Assistance are $518,545 to the City of Wichita, and $18,759 to Sedgwick County. The application is due June 30, 2010.

The City of Wichita and Sedgwick County are required to submit a disparate certification for JAG funding, specifying the amount of the funds that are to be distributed to each of the units of local government and the purposes for which the funds will be used.

A disparate allocation occurs when a city or municipality is scheduled to receive one and one-half times (150 percent) more than a county with concurrent jurisdiction, while that county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crime. JAG disparate jurisdictions are certified by the Director of the Bureau of Justice Assistance (BJA), based in part on input from the State's Attorney General.

Jurisdictions certified as disparate must identify a fiscal agent that will submit a joint application for the total eligible allocation. The joint application must specify the award distribution to each unit of local government and the purposes for which the funds will be used. The City of Wichita will be the applicant/fiscal agent for the joint funds. A Memorandum of Understanding between both agencies outlining the administration and distribution of funding is required to accompany the application. The City Council meeting on June 15 will also serve as an opportunity for members of the public to comment on the proposed application.

The aggregate total of the current allocation for the City of Wichita and Sedgwick County is $537,304. In 2009, the City of Wichita and Sedgwick County agreed to a distribution of 70 percent to the City of Wichita and 30 percent to Sedgwick County. Utilizing this same funding distribution for 2010, the City of Wichita will receive $376,113 and Sedgwick County will receive $161,191 in Federal JAG funding.

Analysis: The Wichita Police Department will use their share of the JAG funding for Law Enforcement purposes to ensure a Safe and Secure Community.

Financial Considerations: The City of Wichita will receive **$376,113** in 2010 Justice Assistance Grant funding. There is no local match requirement.

Portable Radios	**$140,330**
Rental Cars and fuel for special assignments	**$30,000**
Police Equipment (including tactical vests, weapons)	**$180,783**

Target System for the Range	$25,000
Total	**$376,113**

Goal Impact: Under the City of Wichita's Safe and Secure Initiative, the additional funding will help to ensure the police department can continue its emphasis on the community policing philosophy. This philosophy relies on the positive interactions between the police, other public servants and community members to serve our community's needs regarding safety, crime prevention, and crime-related quality-of-life issues.

Legal Considerations: The required Memorandum of Understanding has been reviewed by the Law Department and approved as to form.

Recommendations/Actions: It is recommended that the City Council approve the MOU and authorize the appropriate signatures.

Attachments: Memorandum of Understanding between the City of Wichita and Sedgwick County.
Application Project Narrative.

Wichita Police Department
2010 Edward Byrne Memorial
Justice Assistance Grant

Equipment Entry1: Patrol Enforcement Equipment including police radios and undercover (unmarked vehicle) rental.

Computation: 30 Motorola XTS5000 radios for patrol @ $4,200 each ($126,000), and 4 Motorola XTS2500 radios for Municipal Court @ $2,866 each plus XTL1500 base unit @ $2,866 ($14,330). Undercover vehicle rental and fuel @ $30,000.

Cost: $170,330.

Equipment Entry 2: Safety Equipment including tactical vests and patrol rifles.

Computation: 75 Tactical Vests @ approximately $1,000 each ($75,000), 30 patrol rifles and ammunition @ $2,500 each ($87,500).

Cost: $162,500.

Equipment Entry 3: Unidentified equipment

Safety, Operations, and Surveillance equipment to be identified as needs arise ($18,283).

Cost: $18,283.

Equipment Entry 4: Target System for the shooting range.

Computation: Target System for the shooting range ($50,000). Half to be paid by Sedgwick County; City will pay $25,000

Cost: $25,000

Budget Narrative

The City of Wichita has disparate jurisdiction with Sedgwick County, Kansas. The agreed upon allocation for 2010 is $376,113 for the City of Wichita and $161,191 for Sedgwick County; total allocation is $537,304. The City of Wichita plans to use this allocation as follows:

Portable Radios	$140,330
Rental Cars and fuel for special assignments	$30,000
Police Equipment (including tactical vests, weapons)	$180,783
Target System for the Range	$25,000
Total	**$376,113**

Portable Radios ($140,330): Portable radios, used to establish communication between the community and the police, through Emergency Communications. The current radios are nearing the end of their service life. Replacement parts are no longer available for repairs. Changes in frequency bands also require radios in older bands be replaced. The ability to effectively communicate with dispatch and among other officers is critical to the safety of police officers, and the enhancement of customer service to the community. Radios will also be provided to Municipal Court to replace their outdated radios.

Rental Vehicles and Fuel ($30,000): To effectively impact drug sales and conduct surveillances and undercover operations critical to the safety of a community, operations conducted by Patrol (SCAT) teams require the use of unmarked, non-police vehicles. This component of the grant provides funds for the rental of cars not normally associated with police or police operations.

Tactical Vests ($75,000): Tactical equipment ensures the safety of officers in the most critical of police situations. These vests have a shelf-life that requires periodic replacement in order to effectively protect the members of the Department from injury. The maximum life of the vests is set by the manufacturer, and is standard across the industry. The frequent use and chronological age of the tactical vests require their replacement on a regular schedule to ensure safety.

Police Rifles ($87,500): Funding will be used to provide officers and supervisors with tactical patrol rifles and training to address critical police situations involving suspects armed with high-powered weapons.

Other Equipment Replacement as needed ($18,283): Funds the replacement of police safety, investigations or field equipment not covered in the CIP or Department budget, including repairs to damaged and expired safety equipment, unscheduled software update or upgrades, and crime scene collection and processing equipment.

Target System for the Range ($25,000): The west side is completely non-functional and the east side is requiring lots of repairs to keep if functional. The parts for some of the turning targets are now obsolete and will require extensive modifications to be able to use updated parts.

Program Narrative

The Wichita City Council has identified several key goals for the City of Wichita. One of the goals is to provide a Safe and Secure Community. In working towards this goal the Wichita Police Department strives to provide professional public safety services in partnership with citizens to identify, prevent and solve the problems of crime, fear of crime, social disorders and neighborhood decay, thereby improving the quality of life in our community.

The Wichita Police Department has identified projects designed to proactively address the public safety needs for the City of Wichita. The department's goal is to maintain Wichita's status as one of the safest cities in the United States by maintaining and/or improving response times and crime rates, using the Community Policing Philosophy to focus on crime prevention and youth

initiatives, enhancing traffic safety through education and enforcement, and maintaining and/or improve citizen's perception of public safety.

Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide an opportunity for the Wichita Police Department to purchase safety and enforcement equipment not currently covered in the Department's budget. The acquisition of the equipment immediately follows the awarding of the grant. Given the current state of local economies, use of grant funding for equipment purchases decreases the potential for position deferrals or reductions.

Implementation Timeline

The timeline established for the equipment projects are as follows:

Project	Year
Portable Radios	2011-2014
Rental Cars and fuel for special assignments	2011-2014
Tactical vests	2011-2014
Patrol Rifles	2011
Target System for the Range	2011

Performance Measures:

1. Maintain clearance rates for all Part One crimes which equal or exceed the national average rate based on Federal Bureau of Investigation's 2007 percent of offense cleared by arrests of exceptional means for cities with a population between 250,000 and 499,000.

2. Track the number of officers trained with tactical patrol rifles, number of deployments, and effectiveness.

WPD
2010 JAG
Budget

Description	# of units	Price per unit	Extended Costs	Budgeted Costs
Portable Radios XTS5000	30	4,200	126,000	
Portable Radios XTS2500 or base	5	2,866	14,330	140,330
Rental Vehicles & Fuel (unit days)	1,000	30	30,000	30,000
Tactical Vests	75	1,000	80,000	75,000
Tactical Patrol Rifles	35	2,500	87,500	87,500
Target System for the Range	.5	50,000	25,000	25,000
Unspecified Police Equipment		$ 18,283	18,283	18,283
Total				$376,113

GMS APPLICATION NUMBER: **2010-H7065-KS-DJ**
(Mandatory)

COUNTY CLERK
CONTRACT NO. _____

AGREEMENT BETWEEN
THE CITY OF WICHITA, KANSAS AND COUNTY OF SEDGWICK

2010 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this____day of_____, 2010, by and between The COUNTY of Sedgwick, acting by and through its governing body, the Board of County Commissioners, hereinafter referred to as COUNTY, and the CITY of Wichita, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Sedgwick County, State of Kansas, witnesseth:

WHEREAS, this Agreement is made under the authority of K.S.A. 12-2908, et seq; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the CITY agrees to provide the COUNTY $161,191.00 from the JAG award for the Equipment Procurement and Enhancement Program; and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the CITY and COUNTY agree as follows:

Section 1.

CITY agrees to pay COUNTY a total of $161,191.00 of JAG funds.

Section 2.

COUNTY agrees to use $161,191.00 for the Equipment Procurement and Enhancement Program until 9-30-2013.

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 5.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

GMS APPLICATION NUMBER: **2010-H7065-KS-DJ**
(Mandatory)

ATTEST:

CITY OF WICHITA, KANSAS

_____
KAREN SUBLETT
City Clerk

_____
CARL BREWER, Mayor

APPROVED AS TO FORM:

_____
GARY REBENSTORF
City Attorney

GMS APPLICATION NUMBER: **2010-H7065-KS-DJ**
(Mandatory)

ATTEST:

SEDGWICK COUNTY, KANSAS

_____
KELLY ARNOLD
County Clerk

_____
KARL PETERJOHN, Chairman
County Commissioner, 3rd District

APPROVED AS TO FORM:

_____
JENNIFER MAGAÑA
Deputy County Counselor

Agenda Item No. IV-1

City of Wichita
City Council Meeting
June 15, 2010

To: Mayor and City Council

Subject: ZON2010-00013 - City amendment to Protective Overlays #63, 70, 113 and 117 on properties zoned LC Limited Commercial ("LC"); generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V)

Initiated By: Metropolitan Area Planning Department

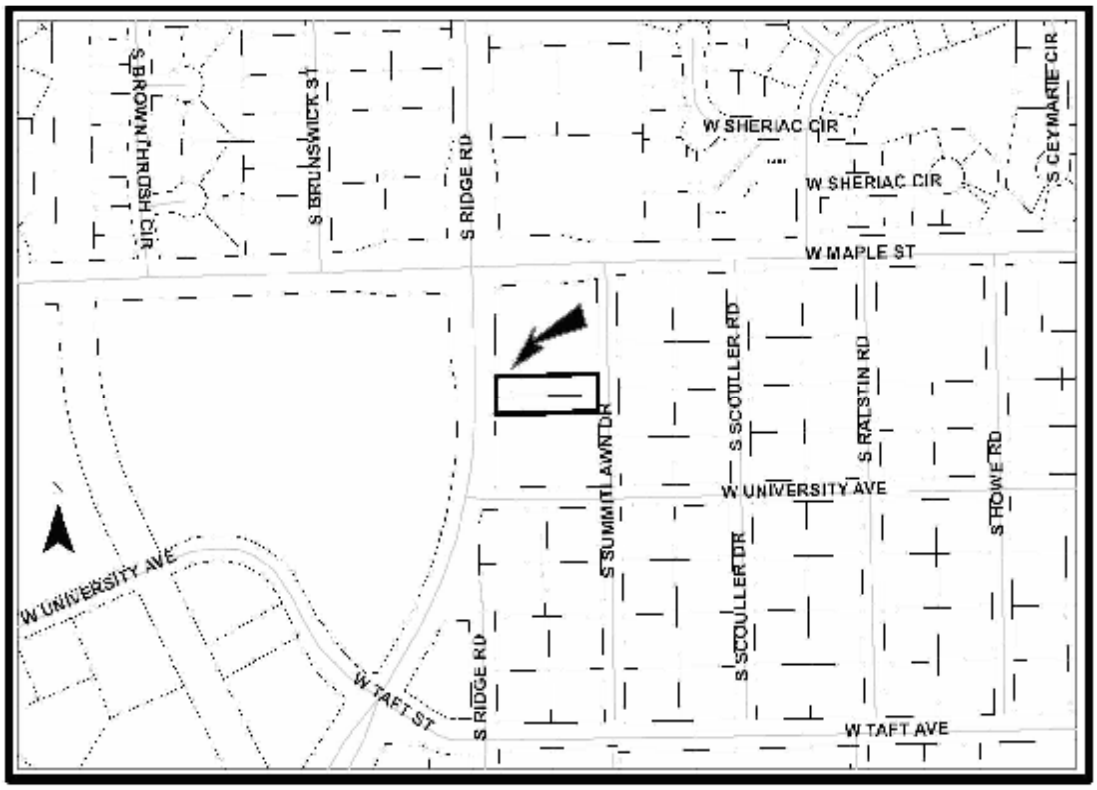
Agenda: Planning (Non-consent)

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

MAPD Staff Recommendations: Approve.

DAB V Recommendations: Approve (5-0), subject to staff recommendation and an additional provision.

Council Recommendation from June 8, 2010, meeting: Defer until the June 15, 2010, meeting with additional information provided on trash pickup for the businesses located between Maple Avenue, Ridge Road, Summit Lawn Drive, and University Avenue (see "Analysis" section).



Background: The applicant proposes to amend Protective Overlays (PO) #s 63, 70, 113 and 117 on the subject site; see 'Analysis' section of this report for the amended provisions. The subject site is the undeveloped land, left over from the final platting of the abutting Pizza Hut and Applebee developments, which abut the site's south and north sides. The site's current LC Limited Commercial ("LC") zoning will remain in place.

Precedent for the requested amendments has been established by the MAPC and City Council with the approval of ZON2008-00066 and PO #228. This applied to the current Applebee's development abutting the north side of the site. PO #228 allowed: (1) Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light poles shall not be located within any setbacks. (2) Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. (3) No buildings shall exceed one story in height with a maximum building height of 35 feet. The requested amendments also eliminated the no longer needed masonry wall along the site's south and north sides where it abuts the LC zoned development and between the subject sites. The Maple to Summitlawn to University to Ridge Road block was rezoned SF-5 to LC during the years from 1992 to 2002.

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential ("SF-5") and are developed with single-family residences built in the mid 1950s to mid 1960s. This single-family residential subdivision is the oldest existing development in the area. The subject property was originally platted as part of this single-family residential subdivision. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a Lowes (built 1998) building supply center. The property abutting the north of the site is the already mentioned Applebee's development, which is zoned LC with PO #228. The property abutting the south side of the site is a Pizza Hut Bistro restaurant built in 2005 and zoned LC with POs #113 and 117.

Analysis: At the DAB V meeting held on May 3, 2010, staff presented the following amendments to the provisions of POs #63, 70, 113 and 117, including the elimination of the masonry walls between the abutting LC zoning properties and between the subject sites, as follows:

Amended provisions 1, 2, 3, 4 and 6 of PO #63:

1. No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district. No off-site or portable signs permitted.
2. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
3. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. Note: PO # 63's east boundary ends approximately 160 feet from the Summitlawn Drive right-of-way.
4. No buildings shall exceed one story in height with a maximum building height of 35 feet.
6. A restaurant with a drive in or drive through facilities is allowed (while retaining the rest of the prohibited uses).

Amend provisions B, C, D & E of PO #70:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located in the 20-foot eastern setback.

C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. No outdoor speakers and/or sound amplification systems shall be located in the 20-foot eastern setback.

D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

E. A 6-foot high masonry wall shall be constructed parallel and along the entire length of the east property line and a 20-foot landscape street yard shall be provided adjacent to the east property line (not in public right-of-way) on the east side of the masonry wall.

Amend provisions B & D of Protective Overlay (PO) #113:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.

D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

Amend provisions B, C & D of PO #117:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located within the 20-foot eastern setback.

C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards. No outdoor speakers and/or sound amplification systems shall be located within the 20-foot eastern setback.

D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

The DAB recommended approval (5-0, without a quorum) of the staff recommended amendments, with an additional provision to the subject POs as underlined:

<u>Trash pickup on the subject property shall between 8:00 AM and 10:00 PM.</u>

The agent for the applicant told the DAB that he would need to check with the property owner in regards to the DAB's recommendation for hours of trash pickup. There were no members of the public that spoke in opposition at the DAB meeting.

At the MAPC meeting held on May 6, 2010, the agent for the property owner objected to the DAB's recommended hours of trash pickup. The MAPC voted to approve (12-0) the staff recommended amendments to the provisions of POs # 63, 70, 113, and 117, without the addition of the DAB's recommended hours of trash pickup. <u>The DAB recommendation is different than what was recommended by the MAPC, thus it will require a 2/3 majority of the Council to approve the request per the DAB's recommendation.</u> There were no members of the public that spoke in opposition at the MAPC meeting. Staff has received no valid protest to the requested amendments.

<u>NOTE:</u> The LC zoned property abutting the north side of the LC zoned subject site is an Applebee's restaurant. Its overlay, PO #228, does not have a provision for the hours of trash pickup or deliveries to the site. The LC zoned property abutting the south side of the LC zoned subject site is a Pizza Hut Bistro restaurant. Its overlay, PO #117, does not have a provision for the hours of trash pickup or deliveries to the site.

The overlay, PO #219, for the LC zoned property located south (across University Avenue) of the above noted properties, does have a provision for the hours of trash pickup and deliveries: 'All deliveries and trash service shall be between 6 AM and 10 PM.'

<u>Financial Considerations</u>: None.

<u>Goal Impact:</u> Promote Economic Vitality

Legal Considerations: The ordinances with the amended Protective Overlays has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the provisions of Protective Overlays # 63, 70, 113 and 117, as recommended; and place the ordinances with the Protective Overlays on first reading; or

2. Adopt the findings of the MAPC, but modify its recommendation by the addition of the provision 'Trash pickup on the subject property shall between 8:00 AM and 10:00 PM.' to the amended Protective Overlays #63, 70, 113 and 117 as recommended by DAB V; and place the modified ordinances on first reading (an override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.); or

3. Return the application to the MAPC for reconsideration.

Attachment: Ordinances with amended provisions to Protective Overlays # 63, 70, 113, and 117.

EXCERPT OF THE MAY 6, 2010 MAPC HEARING

Case No.: ZON2010-13 - Legacy Bank (applicant/owner), Krehbeil Architecture (agent) Request Amendment to PO #'s 63, 70, 113, and 117, on LC Limited Commercial zoned property on property described as;

Parcel 1: The South 57.5 feet of Lot 1, Block 1, Kings Maple Street 3rd Addition to Wichita, Sedgwick County, Kansas.

Parcel 2: The North 48.5 feet of Lot 1, Block 1, University and Ridge Addition to Wichita, Sedgwick County, Kansas, generally located between Maple Street and University Avenue and between Ridge Road and Summitlawn Drive.

BACKGROUND: The applicant proposes to amend Protective Overlays (PO) #s 63, 70, 113, and 117 on the subject site. The subject site is the undeveloped remnants, left over from the final platting of the Pizza Hut and Applebee developments, which abut the site's south and north sides. The site's current LC Limited Commercial ("LC") zoning will remain in place. The following are the proposed amendments.

Amend provisions 1, 2, 3, 4, & 6 of Protective Overlay (PO) #63 of Z-3350 as follows:
Current provision #1: No off-site or portable signs shall be permitted on the property. No building advertising signs shall be permitted on the face of any building. Requesting; No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district, while retaining the prohibition on off-site or portable signs.
Current provision #2: Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 14 feet. Requesting; Light poles shall be limited to a maximum height of 20 feet, while retaining the rest of the provision.
Current provision #3: Outdoor speakers and sound amplification systems are not permitted. Requesting; Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards.
Current provision #4: No buildings shall exceed one story in height with a maximum building height of 25 feet. Requesting; No buildings shall exceed one story in height with a maximum building height of 35 feet.
Current provision #6: A restaurant with a drive in or drive through facilities is a prohibited use. Requesting; A restaurant with a drive in or drive through facilities be allowed, while retaining the rest of the prohibited uses.

Amend provisions B, C, D & E of Protective Overlay (PO) #70 for Z-3360 as follows:
Current provision B: Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 14 feet. Requesting; Light poles shall be limited to a maximum height of 20 feet, while retaining the rest of the provision.

Current provision C: Outdoor speakers and sound amplification systems are not permitted. Requesting; Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.
Current provision D: No buildings shall exceed one story in height with a maximum building height of 25 feet. Requesting; No buildings shall exceed one story in height with a maximum building height of 35 feet.
Current provision E: A 6-foot high masonry wall shall be constructed along parallel to the east and south property line and located 20-feet west and north of the east and south property lines, respectively. A 20-foot landscape buffer shall be provided adjacent to the east and south property lines on the east and south sides of the masonry wall. Requesting; A 6-foot high masonry wall shall be constructed parallel to the east property line, where property in a residential zoning district shall be provided adjacent to the entire length of the east property line and a 20-foot landscape street yard shall be provided adjacent to the east property line on the east side of the masonry wall.

Amend provisions B & D of Protective Overlay (PO) #113 for ZON2002-00023 as follows:
Current provision B: Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 14 feet. Requesting; Light poles shall be limited to a maximum height of 20 feet, while retaining the rest of the provision.
Current provision D: No buildings shall exceed one story in height with a maximum building height of 25 feet. Requesting; No buildings shall exceed one story in height with a maximum building height of 35 feet.

Amend provisions B, C & D of Protective Overlay (PO) #117 ZON2002-00056 as follows:
Current provision B: Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 14 feet. Requesting; Light poles shall be limited to a maximum height of 20 feet, while retaining the rest of the provision.
Current provision C: Outdoor speakers and sound amplification systems are not permitted. Requesting; Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.
Current provision D: No buildings shall exceed one story in height with a maximum building height of 25 feet. Requesting; No buildings shall exceed one story in height with a maximum building height of 35 feet.

Precedent for the requested amendments has been established by the MAPC and City Council with the approval of ZON2008-00066 & PO #228. This applied to the current Applebee's development abutting the north side of the site. PO #228 allowed: (1) Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light poles shall not be located within any setbacks; (2) Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards; (3) No buildings shall exceed one story in height with a maximum building height of 35 feet. The requested amendment to PO #70's provision E dealing with landscaping, eliminated the no longer needed masonry wall along the site's south side where it abuts the LC zoned Pizza Hut development.

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential ("SF-5") and are developed with single-family residences built in the mid 1950s – mid 1960s. This single-family residential subdivision is the oldest existing development in the area. The subject property was originally platted as part of this single-family residential subdivision; see case history. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a Lowes (built 1998) building supply center. The property abutting the north of the site is the already mentioned Applebee's development, which is zoned LC with PO #228. The property abutting the north side of the site is a Pizza Hut Bistro restaurant built in 2005 and zoned LC with POs #113 and 117. Protective Overlays #113 and #117 have not been amended. The Maple - Summitlawn – University – Ridge block was rezoned SF-5 to LC during the years 1992- 2002.

CASE HISTORY: The subject site was originally platted as part of the single-family residential Westerlea Village subdivision, recorded August 11, 1949. It was subsequently rezoned to what now LC is zoning, subject to replatting and the provisions of POs #63, 70, 113, and 117. The subject site is the undeveloped remnants, left over from the final platting of the Pizza Hut and Applebee developments, which abut the site's south and north sides. The subject properties are: The south 57.5 feet of Lot 1, Block 1, Kings Maple Street 3rd Addition and the north 48.5 feet of Lot 1, Block 1, University and Ridge Addition, all in Wichita, Sedgwick County, Kansas.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Applebee sit-down restaurant
SOUTH:	LC	Pizza Hut Bistro sit-down restaurant
EAST:	SF-5	Single family residences
WEST:	LC	Lowes big box building supply center, retail

PUBLIC SERVICES: The subject property has frontage onto Ridge Road. Ridge Road is a four-lane principal arterial, with turn lanes, and a raised, full curbed median strip. Summitlawn Drive, which abuts the east side of the subject property, is a two-lane, paved residential street. The site has no access onto Sumittlawn, via complete access control on the recorded plats. The 2030 Transportation Plan indicates no change to the status of any of these roads. Available traffic counts in the area show approximately 23,700 average trips per day on this section of Ridge Road and Maple Street. All utilities are available to the subject sites.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as appropriate for "Local Commercial" development. The area's existing developments, their base LC zoning and their Protective Overlays conform to the Local Commercial category, as does the proposed amendments to the subject site's POs, which matches all or parts of the abutting north and south properties' POs.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the following amendments to the provisions of Protective Overlays #s 63, 70, 113, and 117 be APPROVED as follows:

Amended provisions 1, 2, 3, 4, & 6 of PO #63:

1. No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district. No off-site or portable signs permitted.
2. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet. No light poles shall be located in the eastern setbacks.
3. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. No outdoor speakers and/or sound amplification systems shall be located in the eastern setbacks.
4. No buildings shall exceed one story in height with a maximum building height of 35 feet.
6. A restaurant with a drive in or drive through facilities is allowed (while retaining the rest of the prohibited uses).

Amend provisions B, C, D & E of PO #70:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet. No light poles shall be located in the eastern setbacks.
C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. No outdoor speakers and/or sound amplification systems shall be located in the eastern setback.
D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
E. A 6-foot high masonry wall shall be constructed parallel and along the entire length of the east property line and a 20-foot landscape street yard shall be provided adjacent to the east property line (not in public right-of-way) on the east side of the masonry wall.

Amend provisions B & D of Protective Overlay (PO) #113:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet. No light poles shall be located within the eastern setback.
D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

Amend provisions B, C & D of PO #117:

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 14 feet. No light poles shall be located within the eastern setback.

C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards. No outdoor speakers and/or sound amplification systems shall be located within the eastern setback.
D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential ("SF-5") and are developed with single-family residences; built mid 1950s – mid 1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision; see case history. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) Overlay, DP-37, and is developed as a Lowes (built 1998) building supply center. The property abutting the north of the site is the already mentioned Applebee development, which is zoned LC with PO #228. The property abutting the north side of the site, a Pizza Hut Bistro restaurant built in 2005 that is zoned LC with POs #113 and 117. Protective Overlays #113 and 117 have not been amended. The Maple - Summitlawn – University – Ridge block was rezoned SF-5 to LC during the years 1992- 2002.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property could be developed as currently zoned with the provisions of its current Protective Overlays, with the exception being that there is no need for a masonry wall between the subject site and the south, abutting LC zoned Pizza Hut Bistro.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Development of the last existing undeveloped property (the subject site) in this block of commercial development, per the provisions of the amended POs will be an improvement over the vacant subject site, with its gap between its neighbors' masonry wall and landscaping.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as appropriate for "Local Commercial" development. The area's existing developments, their base LC zoning and their Protective Overlays conform to the Local Commercial category, as does the proposed amendments to the subject site's POs, which matches all or parts of the abutting north and south properties' POs.

5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized through the recorded plats' limiting access to the subject site to an arterial street and through cross lot access. Other community facilities should not be adversely impacted.

BILL LONGNECKER, Planning Staff presented the Staff Report. He removed the following language that "no light poles will be located in the eastern setbacks" on item #1 of Protective Overlay #63 and item B on Protective Overlay #113, noting that these overlays fronted Ridge and ended in the middle of the subject site and thus there was no need for language he was removing. He said DAB V approved the request as amended and added a provision that there be no trash service at the site before 8:00 a.m. He noted to the DAB that this trash service provision did not exist for the abutting Pizza Hut or Applebee sites.

DENNIS he said this use makes it more intense for the residences that live east of the site by adding more lighting and sound amplification. He asked what the adjacent homeowners had to say about the request.

LONGNECKER commented that he hasn't had any calls protesting the requested amendments and no one spoke at the DAB on the issue.

HILLMAN asked where the speakers will be located; which way will they face.

LONGNECKER responded that they will be at least 20 feet from the property line.

FOSTER noted a typographical error on page 4 of the Staff Report. He also suggested changing the language on page 5, item E to clarify landscaping and/or building setbacks.

LONGNECKER said the buffer wall will be located 20 feet from property line as part of the landscape; that it will not add additional footage. He agreed to amend the wording of provision E.

DUSTIN RANDOLPH, KREHBEIL ARCHITECTURE, REPRESENTING LEGACY BANK said their intent is to have the site match the standards of the abutting north and south properties. In response to Mr. Hillman's question regarding the speakers, he said the speaker board will face southwest away from the residential area. He requested that the trash pickup provision be removed.

SHERMAN (Arrived at 1:45 P.M.)

MIKE CARNEY, PIZZA HUT asked where the ingress/egress into the business will be located.

LONGNECKER said the site's ingress/egress will be off of Ridge Road since there is complete access control onto Summitlawn.

> **MOTION:** To approve subject to staff recommendation and the language change to provision E on page 5.
>
> **JOHNSON** moved, **DENNIS** seconded the motion, and it carried (12-0).

OCA CODE150004

ORDINANCE NO. 48-747

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.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00013

Amending provisions B & D and removing the masonry wall requirement of Protective Overlay #113 of ZON2002-00023 on LC Limited Commercial ("LC") zoned property described as:

The west half of the north 48.5 feet of Lot 1, Block 1, University and Ridge Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO THE FOLLOWING PROVISIONS AND AMENDED PROVISIONS B & D, AND REMOVING THE MASONRY WALL REQUIREMENT OF PROTECTIVE OVERLAY DISTRICT #113:

A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the face of any building that faces any adjoining or property across the street from the subject property that is in a residential zoning district.
B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.
D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
E. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.
F. By separate instrument, the applicant shall dedicate additional right-of-way for Ridge Road (pursuant to Article 7-201 (H) of the Wichita-Sedgwick County Subdivision Regulations), access control except for one opening along the entire frontage along Ridge Road, and two additional feet (for a total of 10 feet) of utility easement along the east property line.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, June 15, 2010.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

OCA CODE 50004

ORDINANCE NO. 48-748

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.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00013

Amending provisions B, C & D of Protective Overlay #117 of ZON2002-00056 on LC Limited Commercial ("LC") zoned property described as:

The east half of the north 48.5 feet of Lot 1, Block 1, University and Ridge Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO THE FOLLOWING PROVISIONS AND AMENDED PROVISIONS B & D OF PROTECTIVE OVERLAY DISTRICT #117:

A. No portable signs shall be permitted on the subject property. An off-site sign shall only be permitted in the northwest quadrant of Lot 8, Block G, Westerlea Village Addition. No signs shall be permitted along the face of any building or along any street frontage that faces any adjoining or property across the street from the subject property that faces any property that is in a residential zoning district.

B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located within the 20-foot eastern setback.

C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.

D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

E. A 6-foot high masonry wall shall be constructed parallel to the east property line, where property in a residential zoning district is across the street from the subject property. The masonry wall along the east property line shall be setback from the property 20 feet and a 20-foot deep landscaped street side yard shall be provided adjacent to the entire length of the east property line, located on the east side of the masonry wall.

F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and

entertainment; service station; tavern and drinking establishment and vehicle repair.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, June 15, 2010.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

OCA CODE 150004

ORDINANCE NO. 48-749

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.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00013

Amending provisions 1, 2, 3, 4, & 5 and removing the masonry wall requirement of Protective Overlay #63 of Z-3350 on LC Limited Commercial ("LC") zoned property described as:

The west half of the south 57.5 feet of Lot 1, Block 1, Kings Maple Street 3rd Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO THE FOLLOWING PROVISIONS AND AMENDED PROVISIONS 1, 2, 3, 4, & 5 OF PROTECTIVE OVERLAY DISTRICT #63:

1. No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district. No off-site or portable signs permitted.
2. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
3. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.
4. No buildings shall exceed one story in height with a maximum building height of 35 feet.
5. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.
6. By separate instrument, the applicant shall dedicate additional right-of-way for Ridge Road (pursuant to Article 7-201 (H) of the Wichita-Sedgwick County Subdivision Regulations), access control except for one opening along the entire frontage along Ridge Road, and two additional feet (for a total of 10 feet) of utility easement along the east property line.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, June 15, 2010.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

OCA CODE 150004

ORDINANCE NO. 48-750

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.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00013

Amending provisions B, C, D & E of Protective Overlay #70 of Z-3360 on LC Limited Commercial ("LC") zoned property described as:

The east half of the south 57.5 feet of Lot 1, Block 1, Kings Maple Street 3rd Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO THE FOLLOWING PROVISIONS AND AMENDED PROVISIONS B, C, D & E OF PROTECTIVE OVERLAY DISTRICT #70:

A. No off-site or portable signs shall be permitted on the property. No building advertisement signs shall be permitted along the face of any building that faces a property in a residential zoning district.
B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located within the 20-foot eastern setback.
C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. No outdoor speakers and/or sound amplification systems shall be located in the 20-foot eastern setback.
D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
E. A 6-foot high masonry wall shall be constructed parallel and along the entire length of the east property line and a 20-foot landscape street yard shall be provided adjacent to the east property line (not in public right-of-way) on the east side of the masonry wall.
F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, June 15, 2010.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

Agenda Item No. IV-2

City of Wichita
City Council Meeting
June 15, 2010

To: Mayor and City Council

Subject: ZON2010-00004 - City zone change from SF-5 Single-family Residential ("SF-5") to NO Neighborhood Office ("NO") with a Protective Overlay; generally located ¼ mile south of 21st Street North and west of Ridge Road. (District V)

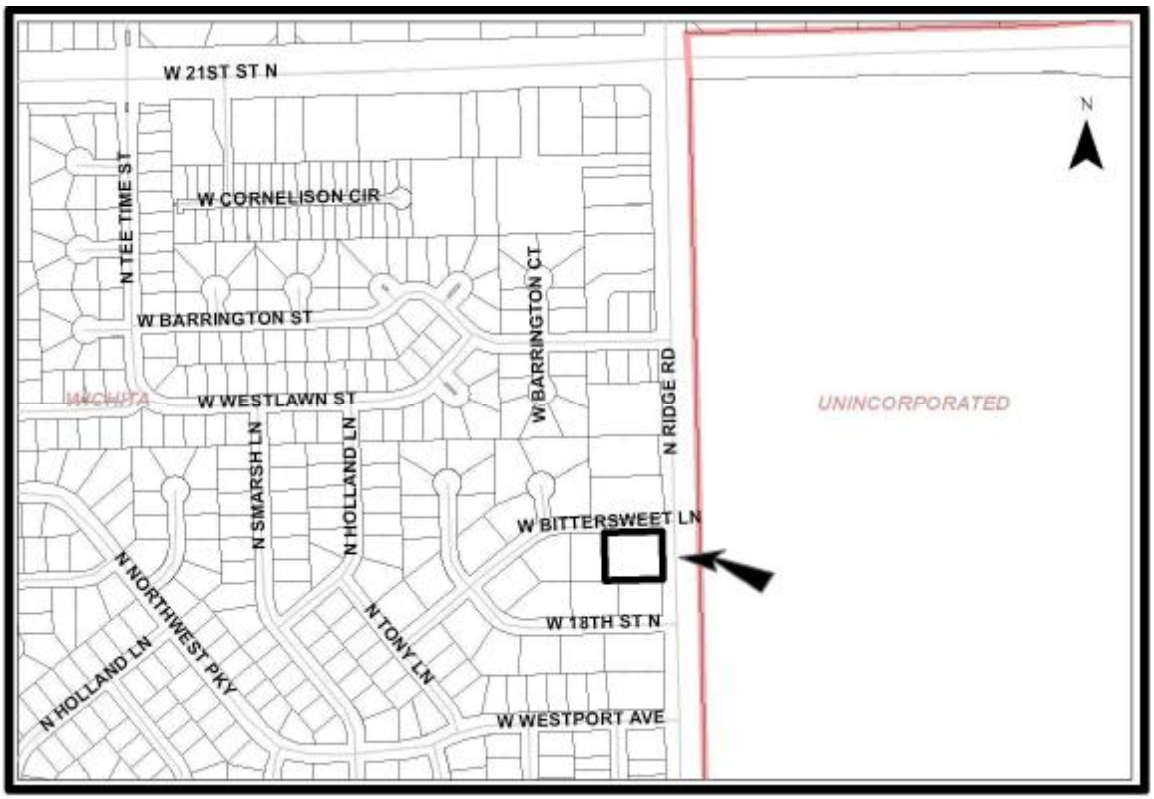
Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Non-Consent)

MAPC Recommendations: Deny (8-3).

MAPD Staff Recommendations: Deny.

DAB V Recommendations: Approve unanimously (7-0), subject to the provisions of a Protective Overlay. **Note:** DAB V will reconsider at their June 7, 2010 meeting (see 'Analysis').



Background: The applicant requests NO Neighborhood Office ("NO"), with a Protective Overlay (PO), zoning on the 0.78 acre, SF-5 Single-family Residential ("SF-5") zoned site. The property is platted as Lot 1, Block B, Westwood Heights 1st Addition. Per the applicant's attached letter, he proposes to build a detached office/studio and hire more than two employees for an expansion of his current home-based internet graphic art business. Home occupation regulations can be found in Unified Zoning Code (UZC) Art IV, Sec IV-E, 5a. The SF-5 zoning district allows a home occupation for a graphic art business, but does not allow a home occupation to be conducted outside of the main dwelling unit, nor does it allow persons not living in the main dwelling unit to be engaged in the home occupation; UZC, Art IV, Sec IV-E, 4a and c. The applicant's letter also proposes: hours and days of operation, parking, no signage, building the office/studio to be residential in character similar to the existing detached garage, and he will not permit any clients, customers or the general public on the premises. The corner lot's single-family residence (built in 1955) has access onto Ridge Road (east side) and Bittersweet Lane (north side).

The zoning of the area is mostly SF-5 zoning, with some TF-3 Two-family Residential ("TF-3") zoning located on the west side of Ridge Road and SF-20 Single-family Residential ("SF-20") zoning located along the east side of Ridge Road. Single-family residential neighborhoods occupy the area along the west side of Ridge Road. The site is one of a cluster of seven (including the property located north of the site and a vacant lot located further south) large SF-5 zoned lots located between 13th and 21st Streets North that have their single-family residences facing Ridge Road, with direct access/drives onto Ridge Road. These residences also appear to be some of the older residences (built 1950s) in the area. The subject site's residence appears to have been built before it was included in the Westwood Heights 1st Addition. All other SF-5 and TF-3 zoned lots located along the west side of Ridge Road are developed with their side or back yards facing Ridge Road, and they have no drives onto Ridge Road. Located on the east side of Ridge Road, is the large, SF-20 zoned Sedgwick County owned park, which includes the Sedgwick County Zoo, open space, multiple playing fields, fishing ponds and slough and a bike/pedestrian path. The nearest non-residential zoning from the site is the LC Limited Commercial ("LC") retail uses located approximately ¼ mile north at the 21st Street and Ridge Road intersection, which includes the Sedgwick County Extension Office.

Analysis: At the DAB V meeting held on March 1, 2010, the DAB considered the requested NO zoning and the proposed PO:

(1) Prohibited uses shall include: assisted living, correctional placement residence limited, day care general, hospital, recycling collection station private, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, funeral home, hotel or motel, ancillary parking, wireless communication facility and asphalt or concrete plant limited.

(2) The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood, Hardie board, composite or a similar type of siding; a double-pitched or hip roof, with a maximum height of 25 feet.

(3) Signage shall be that permitted by the home occupation regulations.

(4) The property shall be restricted to one point of access onto Ridge Road. The property owner shall dedicate complete access control to Bittersweet Lane. The property owner of the subject site shall provide a joint access and cross lot circulation agreement to be provided prior to the case going to City Council, to be in effect when/if the abutting lot to the south also converts to a non-residential use.

(5) Lighting shall conform to lighting standards in Sec. IV-B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height, including the base. No light poles shall be located within the compatibility setbacks, where the site abuts and is adjacent to residential zoning.

(6) Landscaping shall be provided that is equivalent to a landscaped street yard, parking lot landscaping and screening along Ridge Road, and a landscape buffer along the property lines adjoining a residential district, as required in the City of Wichita Landscape Ordinance. A Landscape Plan shall be submitted to the Director of Planning for approval prior to the issuance of a building permit.

The DAB recommended APPROVAL (7-0) of the requested NO zoning subject to the provisions of the proposed PO. There were no members of the public that spoke for or against the requested zoning at the DAB meeting.

At the MAPC meeting held on March 18, 2010, the MAPC voted to DENY (8-3) the requested NO zoning and the proposed PO, noting that the request was spot zoning. There were members of the public that spoke in opposition to the request at the MAPC meeting. At the end of the two-week protest period, 35.85 percent of the total land area within the protest area submitted valid protests against the requested zoning. It takes a 3/4 majority vote of the Council to overturn the protest and a 2/3 majority vote to overturn the MAPC's recommendation to deny the requested zoning.

Note: At its regular meeting on May 4, 2010, the Wichita City Council referred the above captioned request back to DAB V for further consideration and scheduled the request to be considered at the Council's June 15, 2010, meeting. Because the DAB V meeting is being held June 7, 2010, the DAB recommendation is not known at the time of this agenda report was being prepared, the Planning Director will give a verbal presentation of the DAB V recommendation.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

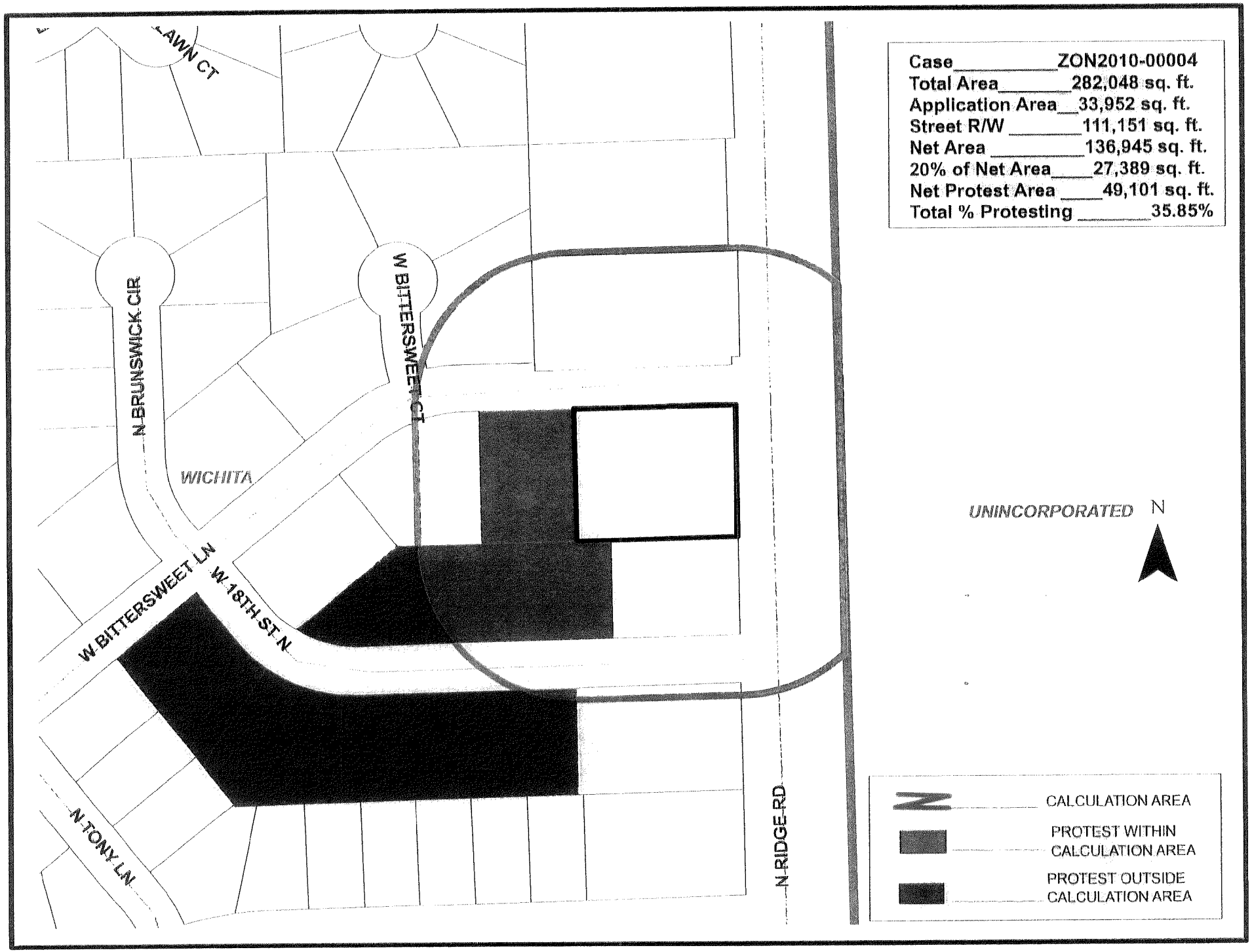
Recommendation/Actions:

1. Concur with the findings of the MAPC, and deny the requested zone change; or

2. Approve the requested zone change by making alternative findings, and override the MAPC's recommendation and the valid protest (requires 2/3 majority vote to override the MAPC's recommendation and a 3/4 majority to override the valid protest); or

3. Return the case to the MAPC for further consideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

Attachment: MAPC minutes, DAB minutes, applicant's letter and protest map.


Case ZON2010-00004
Total Area 282,048 sq. ft.
Application Area 33,952 sq. ft.
Street R/W 111,151 sq. ft.
Net Area 136,945 sq. ft.
20% of Net Area 27,389 sq. ft.
Net Protest Area 49,101 sq. ft.
Total % Protesting 35.85%
UNINCORPORATED
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
N BRUNSWICK CIR
W BITTERSWEET CT
WICHITA
W BITTERSWEET LN
W 18TH ST N
N TONY LN
N RIDGE RD

Jerry Diekman

1935 N. Ridge Rd. WICHITA, KS 67205
PHONE 316-729-9169

February 8, 2010

John Schlegel, Director
Metropolitan Area Planning Department
City Hall, 10th Floor
455 N. Main
Wichita, KS 67202

RE: Zone Change from SF-5 to NO with a Protective Overlay on property located at 1935 N. Ridge Rd.

Dear Mr. Schlegel:

I am the owner of the property located at 1935 N. Ridge Road. This property has been in disrepair for many years. I have invested over $50,000 improving the property so I can live in it. I did this with the intent of operating a home based business out of the property and investing an additional $50,000 or more. This investment to date includes cleaning up the property, hauling away over 21 tons of waste, remodeling the interior, landscaping and constructing a new fence. This has been a great improvement to the neighborhood.

I have a home based internet graphics art business. All of my business is conducted online or via phone. I would like to operate my graphics art business out of this property. To do so I need to construct an art studio behind the existing detached garage. I have sufficient room to construct this studio and meet all setbacks. There is nothing in the code that would prohibit the construction of this building. However, in order to conduct business from the detached building and have employees the property must be zoned Neighborhood Office. NO is the first zoning class that allows me these capabilities.

It is my desire to preserve the residential character of this area. In order to do so I propose the following restrictions that would be placed on the property in the form of a Protective Overlay:

1. Hours of operation would be from 8:00AM till 6:00PM Monday thru Friday. Employees would only be allowed on the premises during these times.
2. No on street parking of employee vehicles would be allowed. All business parking must take place on the existing paved surface and be limited to four vehicles.
3. No pole, monument or building signage allowed.
4. The building would be designed to be residential in character, similar to the existing detached garage.
5. No clients, patients, customers, or the general public allowed on the premises.

If there are other reasonable requests I am open to them as well. These conditions should keep the property residential in character and allow me to conduct the business I intend to have on the property.

I believe this request is in conformance to the rules regarding the rezoning of property as follows:

- **The zoning uses and character of the neighborhood;** While the property on either side is large lot residential with large detached buildings, the property across Ridge Rd. has institutional uses. Just north of the property there is significant commercial development. The restrictions proposed in the PO make this property character remain residential. Therefore the request conforms to the zoning, uses and character of the neighborhood.
- **The suitability of the subject property for the uses to which it has been restricted;** The property faces a major arterial; Ridge Road. The house was rental property that was not well maintained and caused many problems for the area. Its location on Ridge Road, and the proximity to commercial development, severely impacted its suitability as a residential property.
- **The extent to which removal of the restrictions will detrimentally affect nearby property;** The detached structure could be constructed under the current zoning. The Protective Overlay limits the use of the property to that of a home based business, except allows more than one employee. Therefore there will be no detrimental affect on nearby property.
- **The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;** If this request is denied, at least a portion the business will be moved out of town. This will result in the loss of jobs. These jobs, in the current economic times, are a gain to the welfare of the community. The new structure will increase the property value and translate into additional income for the public sector. The restrictions of the Protective Overlay assure there is no loss to the public health, safety and welfare. Denial of this application will result in significant loss and hardship to the applicant. Moving parts of the business out of town will impact the applicant and create unnecessary hardship.
- **Impact of the proposed development on community facilities;** There is adequate existing sewer and water in the area to serve the new building. There will be less than twenty additional trips per day generated by the business. Ridge Road is a major five lane arterial and can handle twenty additional trips.
- **Opposition or support of neighborhood residents;** I have personally met with all of the immediate neighbors and none of them oppose the request if there are adequate protections to preserve the character of the residential area. Many of them support the request.

Thank you for your consideration of this request. I believe this request conforms to the elements necessary for approval of a zone change to Neighborhood Office with a Protective Overlay. Please let me know if you have any questions.

Sincerely,

Jerry Diekmann

EXCERPT OF THE MARCH 18, 2010 MAPC HEARING

Case No.: ZON2010-04 - Jerry C. Diekmann (applicant/owner) requests a City zone change from SF-5 Single-Family Residential to NO Neighborhood Office on property described as:

Lot 1, Block B, Westwood Heights 1st Addition to Wichita, Sedgwick County, Kansas, generally located ¼ mile south of 21st Street North, on the southwest corner of Ridge Road and Bittersweet Lane (1935 North Ridge Road).

BACKGROUND: The applicant requests NO Neighborhood Office ("NO"), with a Protective Overlay (PO) zoning on the 0.78-acre, SF-5 Single-family Residential ("SF-5") zoned site; Lot 1, Block B, Westwood Heights 1st Addition. Per the applicant's attached letter, he proposes to build a detached office/studio and hire more than two employees for an expansion of his current home based internet graphic art business. Home occupation regulations can be found in Unified Zoning Code (UZC) Art IV, Sec IV-E, 5a. The SF-5 zoning district allows a home occupation for a graphic art business, but does not allow a home occupation to be conducted outside of the main dwelling unit, nor does it allow persons not living in the main dwelling unit to be engaged in the home occupation; UZC, Art IV, Sec IV-E, 4a & c. The applicant's letter also proposes hours and days of operation, parking, no signage, building the office/studio to be residential in character, similar to existing detached garage, and not permitting any clients, customers or the general public on the premises. The corner lot's single-family residence (built 1955) has access onto Ridge Road (east side) and Bittersweet Lane (north side).

The zoning of the area is mostly SF-5 zoning, with some TF-3 Two-family Residential ("TF-3") zoning located on the west side of Ridge Road and SF-20 Single-family Residential ("SF-20") zoning along the east side of Ridge. Single-family residential neighborhoods occupy the area along the west side of Ridge. The site is one of a cluster of seven (including the property north of the site and a vacant lot located further south) large SF-5 zoned lots located between 13th and 21st Streets North that have their single-family residences facing Ridge, with direct access/drives onto Ridge. These residences also appear to be some of the older residences (built 1950s) in the area; the subject site's residence appears to have been built before it was included in the Westwood Heights 1st Addition. All other SF-5 and TF-3 zoned lots located along the west side of Ridge are developed with their side or back yards facing Ridge and have no drives onto Ridge. Located on the east side of Ridge, is the large, SF-20 zoned Sedgwick County owned parkland, which includes the Sedgwick County Zoo, open space, multiple playing fields, fishing ponds and slough and a bike/pedestrian path. The nearest non-residential zoning from the site, is the LC Limited Commercial ("LC") zoned retail located approximately ¼-mile north at the 21st and Ridge intersection, which includes the LC zoned Sedgwick County Extension Office.

CASE HISTORY: The site is platted as Lot 1, Block B, Westwood Heights 1st Addition, recorded with the Register of Deeds July 12, 1960. In 1990, the site requested a zone change from R-1 Suburban Residential ("R-1") to BB Office District ("BB"); the MAPC recommended denial and the Board of County Commissioners denied the request. The site/area was annexed into the City in between 1991 – 2000. In 2001, the site requested NO zoning, ZON2001-00039. Staff recommended denial, but also offered an alternate recommendation of approval with a PO, if the MAPD considered the request appropriate. The MAPC approved the NO zoning with a PO at their July 19, 2001, meeting. The Wichita City Council (WCC) denied the requested NO zoning with the PO at their August 14, 2001, meeting. At the DAB V's March 1, 2010, meeting, the DAB recommended approval of the requested NO zoning with the proposed PO; see provisions of the PO in the "Recommendation" portion of this report.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single–family residential
SOUTH:	SF-5	Single–family residential

EAST:	SF-20	Sedgwick County Parkland
WEST:	SF-5	Single–family residential

PUBLIC SERVICES: The site/corner lot is located along Bittersweet Lane and Ridge Road. Ridge is a four-lane arterial street, with a center turn lane. The traffic count for this portion of Ridge, between 13th and 21st Streets North, is approximately 13,611 – 15,388 cars per day (ADTs). The projected traffic volume for 2030 is 16,790 ADTs. There are no street projects included in the C.I.P. The property has one drive entrance onto Ridge Road and one onto Bittersweet Lane. Bittersweet is a paved residential street, with bar ditches. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies the application area as "Urban Residential." The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The site's current use as a single-family residence and its SF-5 zoning comply with the Urban Residential category.

The Office Locational Guidelines of the Comprehensive Plan recommend that office sites be generally located adjacent to arterial streets. The site's location along Ridge, a four-lane arterial street, with a center turn lane, meets that guideline. The site's residence faces the arterial road, Ridge, which is a less desirable orientation for a single-family residence. Local, service oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development, and low-density office use can serve as a transitional land use between residential uses and higher intensity uses. The proposed NO zoning does not serve as a transitional zoning/land use between residential uses and higher intensity non-residential uses. The proposed zoning would create an isolated non-residential zoned site, surrounded by SF-5 zoning and single-family residences and the adjacent SF-20 zoned County Parkland. The site's orientation towards Ridge somewhat isolates the site from its residential neighbors, which have no direct access to Ridge and are buffered from Ridge by this large lot.

The UZC would require compatibility setbacks and compatibility height standards between non-residential and residential development, as well as a screening requirement from residential zoning and uses. Conformance with the Landscape Ordinance would also be required for this proposal. The applicant would also need to provide an improved parking area.

RECOMMENDATION: The Comprehensive Plan "2030 Wichita Functional Land Use Guide" designates this property as Urban Residential. Single-family residential uses border this site to the north, south and west, and park land is to the east. Introduction of the NO zoning district at this location would permit a wider range of uses that are not in character with adjacent zoning districts and uses. A change in zoning could have a detrimental effect on adjacent residential properties and a change in zoning could trigger requests for more zoning changes along this stretch of Ridge Road, in particular for those six other large residential lots whose residences face the arterial road, Ridge, and have direct access/drives onto Ridge. Therefore, it is recommended that this zone change request be DENIED. But, if in the opinion of the MAPC this zone change request is appropriate for this location, staff recommends approval subject to the following provisions of a Protective Overlay (PO) which would restrict signage, and address landscaping, screening, parking, vehicular access, and require residential character for any building development/redevelopment:

1. Prohibited uses shall include: assisted living, correctional placement residence limited, day care

general, hospital, recycling collection station private, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, funeral home, hotel or motel, ancillary parking, wireless communication facility and asphalt or concrete plant limited.

2. The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood, Hardie board, composite or a similar type of siding; a double-pitched or hip roof, with a maximum height of 25 feet.

3. Signage shall be that permitted by the home occupation regulations.

4. The property shall be restricted to one point of access onto Ridge Road. The property owner shall dedicate complete access control to Bittersweet Lane. The property owner of the subject site shall provide a joint access and cross lot circulation agreement to be provided prior to the case going to City Council, to be in effect when/if the abutting lot to the south also converts to a non-residential use.

5. Lighting shall conform to lighting standards in Sec. IV-B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height, including the base. No light poles shall be located within the compatibility setbacks, where the site abuts and is adjacent to residential zoning.

6. Landscaping shall be provided that is equivalent to a landscaped street yard, parking lot landscaping and screening along Ridge Road, and a landscape buffer along the property lines adjoining a residential district, as required in the City of Wichita Landscape Ordinance. A Landscape Plan shall be submitted to the Director of Planning for approval prior to the issuance of a building permit.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: All property adjoining or adjacent to the application area is zoned SF-5 or SF-20, each of these properties is used as single family residences or as Sedgwick County parkland with open space, multiple playing fields, fishing ponds and slough and a bike/pedestrian path. The application area is part of a larger area that is entirely residential in character. The site is also one of a cluster of seven (including the property north of the site and a vacant lot located further south) large SF-5 zoned lots located between 13th and 21st Streets North that have their single-family residences facing Ridge, with direct access/drives onto Ridge. All other SF-5 and TF-3 zoned lots located along the west side of Ridge are developed with their side or back yards facing Ridge, with no direct access/drives onto Ridge

(2) The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for a single-family residence. Other nearby properties in a similar situation continue to be used for residential purposes. Also, the 0.78-acre lot could potentially be subdivided into more lots through lot splits or a replat. The site's development orientation (residence facing Ridge and having direct access) towards Ridge, a four lane arterial with a turn lane, probably makes it less desirable for single-family residential use.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: No similar zoning changes have been approved on this section of Ridge Road, although this is the subject site's third application for an office type of zoning. A change to NO zoning could impact the surrounding residences with a probable increase in traffic and a change in neighborhood

character. Approval of this request for NO zoning could encourage the adjacent six, large SF-5 zoned lots/residences to seek a similar approval, as they all have direct access/drives onto Ridge and have their residences facing Ridge.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for Urban Residential development, which is not in conformance with the application for NO zoning. The proposed rezoning is not in conformance with the Office Locational Guidelines of the plan, in that the site would not serve as a transitional land use from more intense development. The proposed zoning would create an isolated non-residential zoned site, surrounded by SF-5 zoning and single-family residences and the adjacent SF-20 zoned County Parkland. The Guidelines also recommend that office sites be generally located adjacent to arterial streets. The site's location along Ridge, a four-lane arterial street, with a center turn lane, meets that guideline. The site's residence faces the arterial road, Ridge, which is a less desirable orientation for a single-family residence. The site's orientation towards Ridge somewhat isolates the site from its residential neighbors, which have no direct access to Ridge and are buffered from Ridge by this large lot.

(5) Impact of the proposed development on community facilities: Drainage considerations brought about by redevelopment of the site and a probable increase in traffic onto Ridge.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that DAB V recommended approval with the Protective Overlay recommended by staff. He commented that although it was not mentioned in the Staff Report, this proposal is considered "spot zoning."

MILLER STEVENS asked for clarification as to where the new structure will be located on the property.

LONGNECKER referred to the site plan and indicated an area behind the garage on the west side of the property. He mentioned that the applicant will have to meet screening requirements, if the proposed zone change is approved.

JERRY DIEKMANN, APPLICANT, 1935 NORTH RIDGE ROAD said he has been a graphic artist for twenty-six years and that he purchased the property in April, 2009, so the previous requests Mr. Longnecker referred to in his presentation were not made by him. He mentioned that the property was in really bad shape when they bought it. He said four dumpsters of trash have been hauled off the property; and they have completely redone the interior of the residence. He said they are not done making improvements to the property. He said his only goal was to have a home occupation. He said he is a graphic artist that works "on line." He said he contracts with a number of companies and develops "point-of-purchase" signs. He said he designs the signs, but does not manufacture them. He said he understood that part-time employees were not allowed under the home occupation zoning so that is why he is requesting a zone change. He said he would like to build a studio out back to do his graphic art work. He commented that both of his neighbors already have buildings in back of their homes. He said one of the first things he did was talk to all his neighbors and explained to them what he was proposing. He said he had no strong objections and referred to two letters of support provided as a handout. He commented that he doesn't want to put up business signs or have customers come to the house, that he does all his business "on line." He said he didn't have any problems with the restrictions of the protective overlay with the exception of item #4, concerning dedicating complete access control to Bittersweet Lane and only having access to Ridge Road. He said he likes to enter his property from Bittersweet Lane, because it is a very sharp turn from Ridge into his garage. He said he is also concerned about the

additional parking design for employees, because the design he came up with was so that employees could back out and then exit onto Bittersweet Lane.

HILLMAN asked why staff was recommending that Bittersweet Lane be closed.

LONGNECKER explained that staff was recommending complete access control to Bittersweet Lane to keep whatever traffic that may come to the site on Ridge Road, which was the arterial. He said although the applicant says no one will come to the studio, there are no restrictions on that. He added that a "home occupation" is limited to only the people that live at the residence and; therefore, this needed to be rezoned from SF-5 Single-Family Residential to NO Neighborhood Office. He said if NO is approved, all restrictions under that zoning will apply, in addition to whatever other restrictions this body wants to impose.

HILLMAN asked the applicant if he had any plans in the future to set up a paint shop or production facility for the graphics.

DIEKMANN said no interest at all. He referenced item #4 and mentioned the cross lot circulation requirement "when/if the abutting lot to the south also converts to a non-residential use."

LONGNECKER said staff is of the opinion that this zone change, if approved, will trigger similar zoning requests to the south and possibly north of this location.

DEIKMANN mentioned that the property to the north of him also has access onto Bittersweet Lane.

CHAIRMAN VAN FLEET asked the applicant is he had any problems with the rest of the conditions.

DIEKMANN said he had no problem with the rest of the conditions.

FOSTER asked the applicant to describe in more detail where the structure (graphic studio) would go, and how off street parking would be handled.

DEIKMANN said they don't have a plan for off street parking. He said they were going to put a couple of spots by the northwest corner as you pull into the driveway but with the requirement of closing Bittersweet Lane, the turn around to get back out is going to be difficult. He said the building will be located in back of the detached garage. He said he currently has a six-foot fence with brick pillars every 20 feet with lights on top of them around the property that attaches to the side of a detached building. He said the studio will be behind that.

ERIN SPELTS, 7228 WEST 18th STREET NORTH said they have lived in the neighborhood since 1982. She said they don't have a problem with Mr. Deikmann having a studio, but she said look at the neighborhood. She said people come into the neighborhood on 18th Street and go out on Bittersweet Lane. She said their yard backs up to Mr. Deikmann's chain link fence so they can see his swimming pool, garage and his potential office from their backroom. She said she has a 2½ old grandson that can scale that fence and she is concerned about that. She commented that NO Neighborhood Office zoning allows just about everything except for dental and doctor's offices and insurance companies. She asked what happens if Mr. Deikmann sells the property? She said this is a nice, quiet neighborhood and she would like to keep it that way. She asked several questions concerning the application, including, can Mr. Deikmann hire more than two people and how many cars can be parked in the driveway? She also commented that Bittersweet Lane is very narrow and if people are allowed to park on that Lane there could be safety issues. She mentioned coming home one day and that several cars were parked along the Lane. She mentioned that the neighbor to the south has a lawn mower repair business. She said he has

made the comment that if Mr. Deikmann gets okayed, he will pay his $225.00 and get his permit also. She added that she is also concerned about property values going down. She concluded by asking what restrictions are going to be placed on this proposal and how is it going to be monitored?

FOSTER asked about the height of the chain link fence.

SPELTS replied that the fence was about four-feet high.

HILLMAN commented that if this process is approved, the applicant will provide a solid cedar type fence all around the property.

SPELTS said her grandson getting into the pool is her biggest fear, but that she was also concerned about what can potentially happen if the rezoning request is granted.

MICHAEL SPELTS, 7228 WEST 18th STREET NORTH commented that once this is rezoned, the neighbor to the north has mentioned possible rezoning. He said this may turn into commercial properties all the way up to 21st Street. He said he does not care about the lawn mower shop or if Mr. Deikmann has a studio, they just don't want this area commercialized.

GREG FERRIS, AGENT FOR THE APPLICANT said a solid screening fence around the site is required by Code and will be provided. He said the letter the applicant has offered actually has more restrictions than those recommended in the Staff Report. He said they have no problem with not allowing patients or customers to come to the property if that will make the neighbors feel comfortable. He said in regard to the potential domino effect; this would be a very restricted office use where nothing else can happen. He said those lots will never become commercial properties or offices if the Commission applies the same standards as they are applied to this property. He commented that the cross lot circulation will destroy the residential character and the whole goal was to leave it the way it is.

CHAIRMAN VAN FLEET commented that the staff recommendation was to deny the application.

MOTION: To deny subject to staff recommendation.

MITCHELL moved, **DOWNING** seconded the motion.

MARNELL asked how restrictive can the Commission be with a protective overlay on a zoning case like this?

JOE LANG, CHIEF DEPUTY CITY ATTORNEY said some of the conditions the applicant has offered would be more appropriate for a conditional use. He said the Commission may require any restriction that is considered reasonable and that has been imposed on other properties.

MARNELL said it appeared to him that the neighbors didn't have a problem with what the applicant wanted to do per se, but they did not want it to be classified just NO because of possible higher uses in the future. He said he didn't know how to make the restrictions tight enough to satisfy the neighbors yet still allow the applicant to do what he wanted to do, which he thought seemed reasonable.

LANG commented that the code referenced "any other specific development standards." He said as long as the restriction pertained to the use of the property that would be appropriate to the protective overlay.

MARNELL asked if the Commission could restrict the use to that particular type of business (graphic design) and require that no customers be at the site?

LANG said the "no customers" requirement was a gray area.

HILLMAN asked about off street parking on Bittersweet Lane. He asked if the business could be asked to provide additional parking?

LANG said yes additional parking could be required as part of the protective overlay.

SHERMAN asked if this is approved, what about the lawn mower guy to the south. Would he have to pick up and deliver the lawn mowers if no customers were allowed at the site.

LONGNECKER explained that a lawn mower repair service was not allowed in NO zoning. He said that type of business required LC Limited Commercial zoning which staff would not support at that location which was further away from the corner of 21st Street.

HENTZEN asked if it was proper to use a conditional use without changing the zoning.

LANG responded that conditional uses are not options for changing SF-5 Single-Family Residential zoning.

FOSTER asked if this were a home occupation, if there was a structure connecting the principle structure with the studio structure, would that have to be an enclosed structure?

LONGNECKER responded yes and it would also have to meet occupancy standards.

FOSTER asked if there was any flexibility under the home occupation for two employees?

MILLER said the only other option was the applicant could have applied for TF-3 Two-Family Residential zoning which allows outside employees, but he would still have the home occupation restrictions with regard to parking and changes to the façade of the home. He said that is why staff directed the applicant to apply for a zone change. He said five questions need to be answered for a variance and one of them is proving that the issue is due to a hardship not of your own making and staff had a hard time proving that this was not a self-imposed hardship

MARNELL said this seems like "no harm, no fowl" if it is done properly. He said the neighbors are not opposed to what the applicant is proposing, only what can happen in the future. He said he believes the Commission can zone this NO and make the protective overlay tight enough to accommodate what the applicant is doing only with a bigger facility with appropriate screening, a parking and landscape plan that is acceptable to the Planning Department, and solid fencing.

> **SUBSTITUE MOTION:** To approve NO zoning with a PO to include appropriate screen, a parking and landscape plan and limit the number of employees to four.
>
> **MARNELL** moved, **HILLMAN** seconded the motion.

CHAIRMAN VAN FLEET clarified that the motion included the additional offers contained in the applicant's letter.

MARNELL said as long as it is not in conflict with Staff's recommendation.

LONGNECKER said staff recommended signage and the applicant offered no signage.

MARNELL said no signage.

MILLER commented that NO does not require solid fencing; however, there is an option for landscaping.

MARNELL specifically requested solid fencing.

FARNEY asked about access to Bittersweet Lane?

MARNELL said to leave it as staff recommended. He said as a side comment, personally he would rather have access onto Bittersweet Lane than Ridge Road because he thinks the problem with arterials is there is way too much access onto them.

MILLER STEVENS said she would be in opposition to the substitute motion. She said once the zoning is changed, folks come and go but the zoning stays with the land and once zoning is changed it is difficult to go back. She said this is an established neighborhood and although the neighbors don't mind the home occupation, they don't want any kind of commercial development and she feels approving this would be stepping down the road in that direction.

FOSTER commented that because of the swimming pool, the minimum fence height is five feet and the motion maker might want to mention that. He asked what was Staff's opinion was about access onto Bittersweet Lane.

LONGNECKER said they prefer the recommendation in the PO which was to limit access to Ridge Road.

MITCHELL said with all due respect, staff did not include in the Staff Report that this was considered spot zoning and said that this is a classical example of what can happen with spot zoning. He said the property has gone before several hearings and been denied for the very reasons that have been discussed today. He said if this is approved, he guarantees within two to three years there will be half a dozen more zone changes in the area. He said he would not support the substitute motion.

SUBSTITUTE MOTION FAILED (3-8).
DOWNING, FARNEY, FOSTER, HENTZEN, KLAUSMEYER, MILLER STEVENS, MITCHELL, SHERMAN - No.

ORIGINAL MOTION CARRIED (8-3).
HILLMAN, MARNELL, VAN FLEET - No

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

Mayor and Wichita City Council Members

FROM: Megan Buckmaster, Neighborhood Assistant District V

SUBJECT: **ZON2010-0004**

DATE: April 06,, 2010

On Monday, March 01, 2010, the District Advisory Board (DAB) for Council District V considered a City zone change request from "SF-5", Single Family Residential, to" NO", Neighborhood Office with a Protective Overlay "PO" located at 1935 North Ridge Road (approximately ¼ mile south of 21st Street North, on the southwest corner of Ridge Road and Bittersweet Lane).

The only concern raised by the board was regarding landscaping requirements to which Mr. Longnecker responded.

A motion was made to approve the recommendation move forward to Council for vote, subject to the provisions of a Protective Overlay (PO) which would restrict signage, and address landscaping, screening, parking, vehicular access, and require residential character for any building development/redevelopment as listed in the staff report.

The motion passed 7-0

Action: DAB V recommends this request move forward to City Council for vote.

Agenda Item No. IV-3

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: CON2010-00008 – Request for a Conditional Use to allow Wrecking /Salvage Yard on property located at the southwest corner of 29th Street and Mead. (District VI)

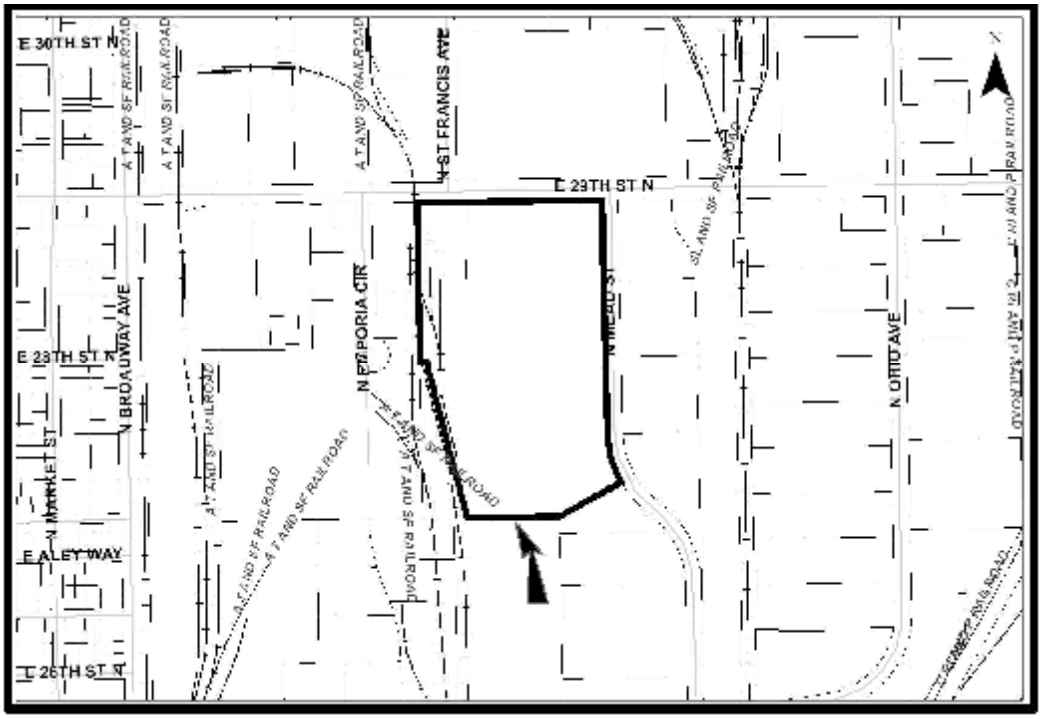
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to amended staff conditions (6-5).

MAPD Staff Recommendations: Approve, with conditions.

DAB VI Recommendation: Deny (5-0).



Background: The application area is located at the southwest corner of East 29th Street North and Mead Street and is zoned GI General Industrial ("GI"). The applicant is seeking a Conditional Use to permit "wrecking / salvage yard" on the 25.68-acre site that is developed with an office building that currently houses Cargill Meat Solutions. Since the time the application was filed, the property has been sold to Midwest Scrap Management, Inc., who intends to operate a metal and scrap salvaging, sorting and shredding operation. Material will be brought in primarily by truck; however processed material is primarily shipped out by rail. Trucks will be used for local delivery. It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day. Scrap piles may reach 30 feet in height. The applicants do not part-out vehicles. Inoperable vehicles located on-site will be shredded into "fist-sized" pieces. The application area has one access point each to 29th Street and to Mead. The business expects to employ up to 50 office workers, truck drivers and heavy equipment operators.

The *Wichita-Sedgwick County Unified Zoning Code*, Sec. II-B.14.r defines "wrecking/salvage yard as a lot used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials; and/or for the sale of parts thereof. A wrecking / salvage yard is allowed by Conditional Use permit in the LI Limited Industrial ("LI") and GI districts, and allowed by right in the Air Force Base ("AFB") District, subject to Supplementary Use Regulations Sec. III-D.6.e (1) the use is not abutting an arterial street, expressway or freeway; (2) in the opinion of the Planning Commission, the use will not adversely affect the character of the neighborhood; and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent the area of such fence. With respect to the requirement that the use not abut an arterial street, planning staff has been advised by the Office Central Inspection that as long as the use is located at least 150 from arterial street right-of-way it is considered to not be abutting. The existing chain-link fence depicted on the submitted site plan does not meet the opacity requirement mention above. The screening wall needs to also meet the standards outlined in Sec. IV-B.3.h: "Screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood." In the past, staff has received complaints regarding the use of large rectangular concrete blocks as screening material. It is recommended that such fencing material be prohibited from meeting the screening requirement.

All surrounding property is zoned GI, and is used for a variety of industrial uses including: warehousing, steel fabricating, grain elevators, outside storage of trailers, offices and manufacturing, and salvage and wrecking. Glickman Metal Recycling is located just west of the application area, and contains significant piles of scrap metal.

Analysis: District Advisory Board ("DAB") VI heard this request at their March 17, 2010, meeting. The DAB voted (5-0) to deny the request. Eight property owners spoke in opposition, many of them referencing an association with the Bridgeport Area Business Association ("BABA"). The property owners' opposition centered on the argument that the businesses that they run are primarily indoor activities that do not involve the outdoor processing or storage of materials like those that are typically associated with a wrecking and salvage yard. The speakers asserted that they have made significant investments in higher quality facilities than are found in a typical industrial area, and approval of the requested use will devalue their investments. Some of the protesters referred to their area as an "industrial park" as a way to contrast their ownerships with the proposed project. It is their contention that a wrecking and salvage yard will bring visual blight; that the screening offered will not hide the scrap piles; traffic will increase and the potential for explosions and air and ground pollution will also increase. (See the attached March 17, 2010, DAB VI memo and protest letters.)

The MAPC heard this request at their March 18, 2010, meeting. Approximately the same number of folks that spoke in opposition at the DAB VI meeting spoke in opposition at MAPC citing concerns similar to those expressed at the DAB meeting. The MAPC voted (6-5) to approve the request subject to the following conditions:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials. Recycling, salvage or wrecking activity is not permitted within 570 feet of 29th Street's southern right-of-way (or north of the south elevation of the existing principal building).

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited.

3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection. Materials stored outside shall not exceed 35 feet in height.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

In response to the concerns expressed at the DAB VI and MAPC meetings, the applicant has modified the proposal by offering enhanced screening. Neither the MAPC nor DAB VI has seen the modified proposal; however, the applicant has shown the proposal to members of the Bridgeport Area Business Association (BABA). The applicant's enhanced proposal is to construct a six to eight-foot berm that would be topped with an eight-foot tall masonry wall. Combined the berm and masonry wall would create a 14 to 16-foot tall screen that should effectively screen from view along Mead and 29th Street scrap piles up to approximately 75 feet in height. The screening is proposed to be located along the southern property line, beginning adjacent to the northern end of the grain elevator, then east to Mead Avenue, then north along Meade to the entrance on Meade, then west along the southern side of the driveway into the proposed facility. The berm and wall would then resume on the north side of the Mead Avenue driveway, then run north to 29th Street and then west along 29th to the corner of the main driveway serving the parking lot located east of the main office building. The screening is proposed to be further enhanced by the addition of trees or shrubs.

A 47.08 percent protest has been registered, triggering the three-fourths vote requirement for the governing body to approve the request.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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

Attachments: Resolution.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the Conditional Use, subject to the recommended conditions (requires a three-fourths majority); or

2. Concur with the findings of the MAPC and approve the Conditional Use subject to the additional requirement for a six to eight-foot berm and an eight-foot screening wall (requires a two-thirds majority to modify the MAPC's recommendation); or

3. Deny the Conditional Use request by making alternative findings, and override the MAPC's recommendation (requires a two-thirds majority vote to override the MAPC's recommendation); or

2. Return the case to the MAPC for further consideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

RESOLUTION No. 10-169

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO ALLOW A WRECKING AND SALVAGE YARD ON A PORTION OF THE 25.68 ACRES ZONED GI GENERAL INDUSTRIAL ("GI"), GENERALLY LOCATED ON THE SOUTHWEST CORNER OF EAST 21ST STREET AND NORTH MEAD AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 48-451, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, permit a wrecking and salvage yard on a portion of the 25.68 acres zoned GI General Industrial, legally described below:

Case No. CON2010-00008

Lot 1 except beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; thence West 213.12 feet; thence North 340 feet to beginning, Block 1,
North Industrial Park Addition to Sedgwick County, Kansas.
AND
Beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas, generally located on the southwest corner of East 21st Street and North Mead Avenue.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials. Recycling, salvage or wrecking activity is not permitted within 570 feet of 29th Street's southern right-of-way (or north of the south elevation of the existing principal building).

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited.

3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection. Materials stored outside shall not exceed 35 feet in height.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

_____

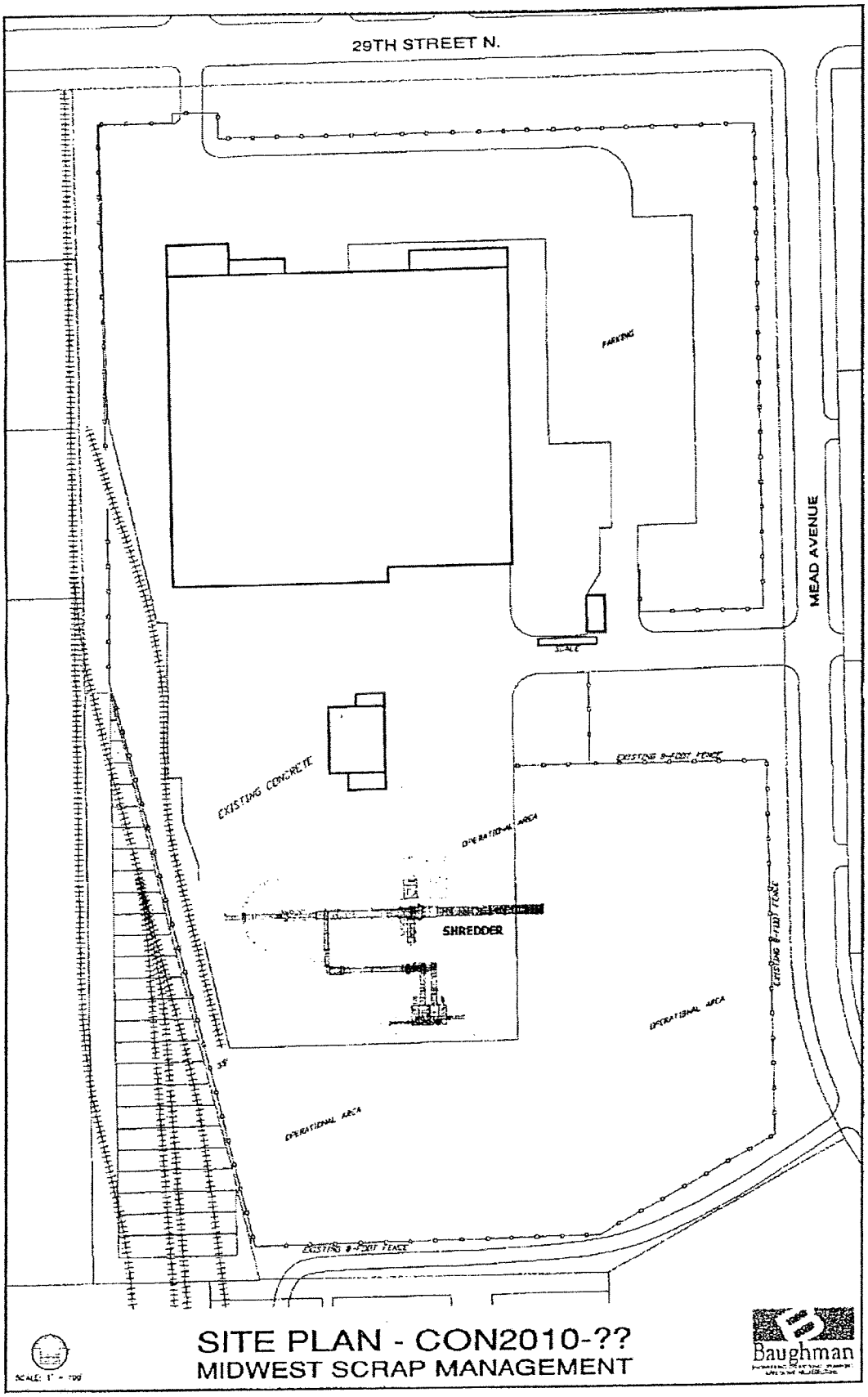
_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney


29TH STREET N.
MEAD AVENUE
PARKING
SCALE
EXISTING CONCRETE
OPERATIONAL AREA
SHREDDER
EXISTING 8'-FOOT FENCE
OPERATIONAL AREA
OPERATIONAL AREA
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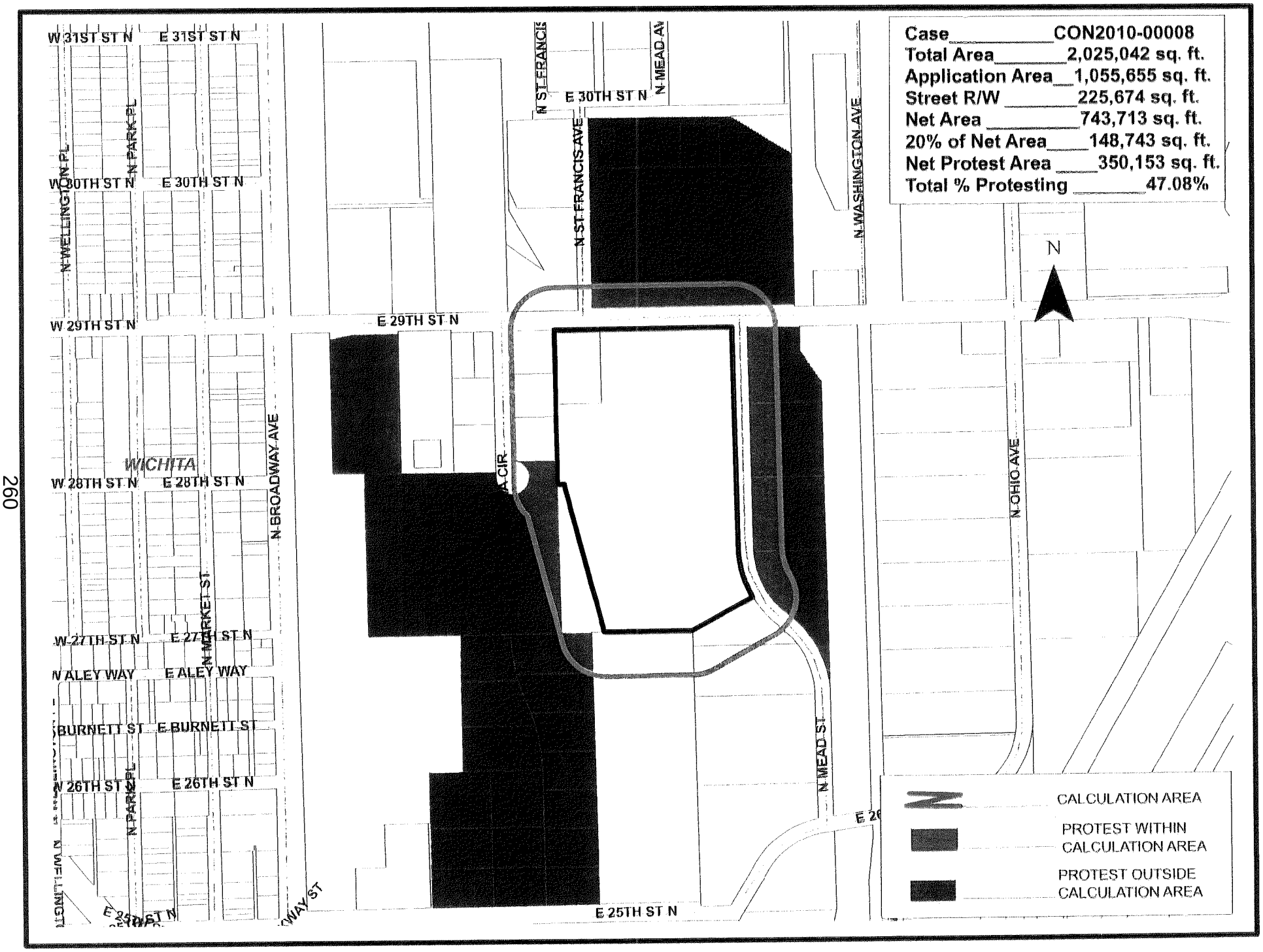
EXISTING 8'-FOOT FENCE
SITE PLAN - CON2010-??
MIDWEST SCRAP MANAGEMENT
Baughman


Case CON2010-00008
Total Area 2,025,042 sq. ft.
Application Area 1,055,655 sq. ft.
Street R/W 225,674 sq. ft.
Net Area 743,713 sq. ft.
20% of Net Area 148,743 sq. ft.
Net Protest Area 350,153 sq. ft.
Total % Protesting 47.08%
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
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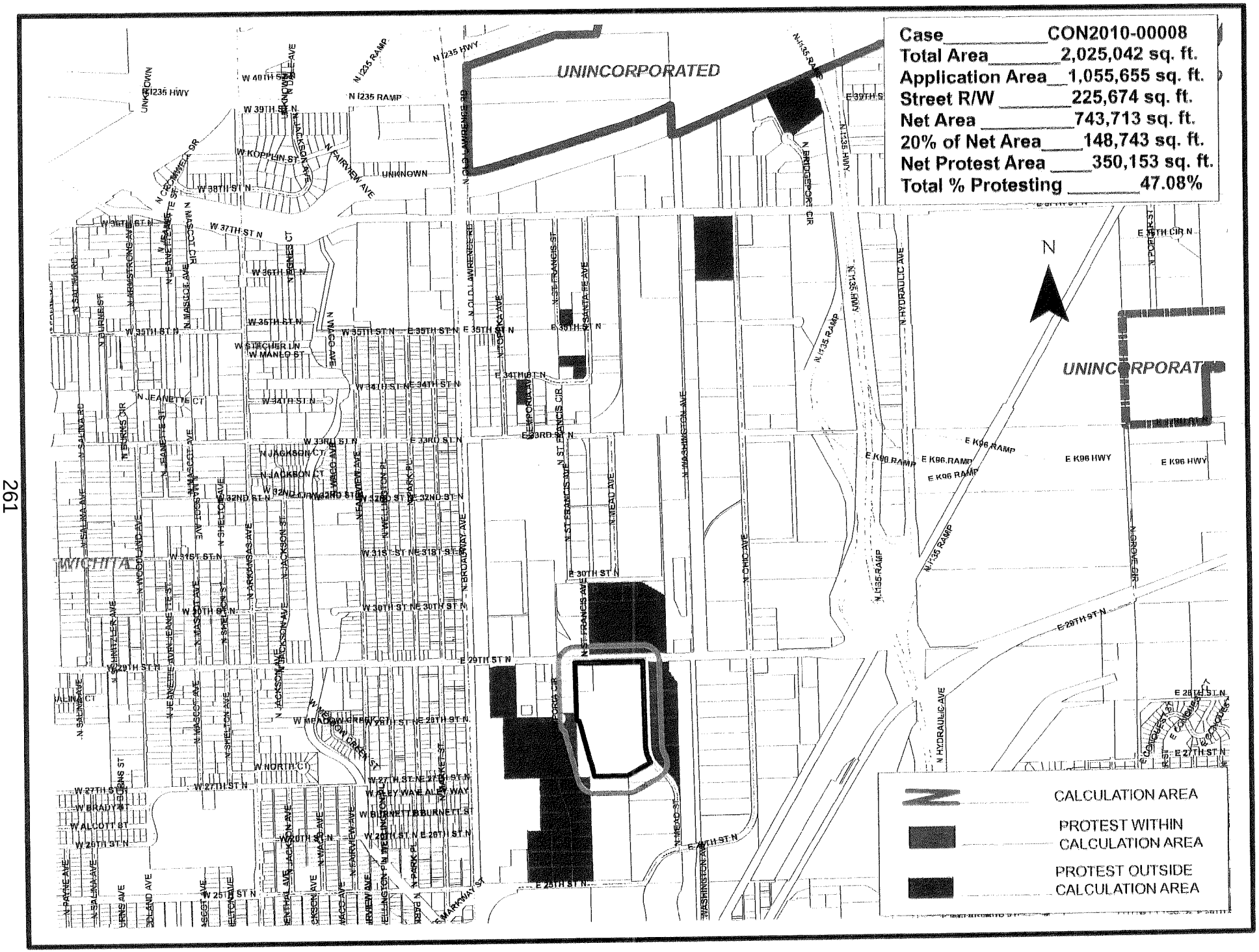
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UNINCORPORATED
WICHITA
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **CON2010-00008** City Conditional Use to permit wrecking and salvage at 2901 N. Mead Avenue, generally located at the southwest corner of 29th Street North and North Mead Avenue.

DATE: March 17, 2010

On Wednesday, March 17, 2010 the District VI Advisory Board (DAB) considered a City Conditional Use to permit wrecking and salvage at 2901 N. Mead.

The members were provided the MAPD staff report for review prior to the meeting. *Dale Miller*, Planner presented the case background, reviewed the staff recommendation and answered questions of members and the public.

The Board asked the following questions/comments:

- How far is the existing metal recycling in the area from this location?
- What is the height for screening?
- What would be the highest estimate of trucks coming to the property on a daily basis as the staff report said fewer than 20?
- Will they recycle fuel tanks and tires?
- What controls do you have in place to keep down dust?
- Will there be hazardous liquid leaching into the ground?
- Will there be retail of yard metal to the public?
- Has the applicant met with the surrounding neighbors about the business they are bringing to the area?
- What impact will the existing businesses have from this recycling center?

Eight members of the public made the following comments, asked questions or expressed opposition of the conditional use request::

- Bridgeport is a high quality industrial park and we are opposed to this.
- What about all the visual blight this business will bring?
- Another previous conditional use request was denied by MAPD due to the 21st street revitalization and the City's investment in the Bridgeport area. I oppose.
- I have spent a lot of money on my business to improve the area. The other recycling location has explosions and they scare us. They say one thing at these meetings and do another once they have been approved to operate.
- There has to be another location to put recycling in this city. This is detrimental to our area.
- I would feel a violation of trust by the City if this non-like business is put in Bridgeport.
- An 8-ft. fence doesn't hide anything. This is not good for our neighborhood.
- I'm concerned about retaining our property value due to visual blight. I'm opposed.
- When the Glickman recycling has explosions it shakes our building and what about airborne bits of steel that will get into my equipment and increased traffic in front of my building. I'm opposed.

- The business these owners operate in Kansas City has recycled piles over 50ft high-they can do that here as an 8ft-fence will not cover anything. Another problem is gas tanks and tires strewn throughout K.C. because the recycling plants wouldn't take them. I'm opposed.
- If we get another recycling plant we will have bidding wars between them to recycle which in turn causes an influx of robbery of materials. Who is going to protect our community when this happens. I oppose.

****Action:** The District VI Advisory Board members made a motion to recommend to City Council to deny **(5-0)** the conditional use request based upon previous background information of prior applicants and the Bridgeport Association members comments.

Please review this information when **CON2010-00008** is considered.

mtd

EXCERPT OF THE MARCH 18, 2010 MAPC HEARING

Case No.: CON2010-08 - Cargill Meat Solutions Corporation (property owner), Midwest Scrap Management, Inc. (prospective purchaser) / Robert Kaplan (agent) requests a City Conditional Use to permit wrecking and salvage on property described as:

Lot 1 except beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; thence West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas.
AND
Beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas. Generally located at the southwest corner of 29th Street North and North Mead Avenue (2901 N. Mead).

BACKGROUND: The application area is located at the southwest corner of north 29th Street and Meade Street, and is zoned GI General Industrial ("GI"). The applicant is seeking a Conditional Use to permit "wrecking and salvage" on the 25.68-acre site that is developed with an office building that currently houses Cargill Meat Solutions. The current owner intends to sell the property to Midwest Scrap Management, Inc., who intends to operate a metal and scrap salvaging, sorting and shredding operation. Material will be brought in primarily by truck; however processed material is primarily shipped out by rail. Trucks will be used for local delivery. It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day. Scrap piles may reach 30 feet in height. The applicant's do not part-out vehicles. Inoperable vehicles located on-site will be shredded. Shredded material ends up in "fist-sized" pieces. The application area has one access point each to 29th Street and to Meade. The business expects to employ up to 50 office workers, truck drivers and heavy equipment operators.

The *Wichita-Sedgwick County Unified Zoning Code*, Sec. II-B.14.r defines "wrecking/salvage yard as a lot used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials; and/or for the sale of parts thereof. A wrecking and salvage yard is allowed by Conditional Use permit in the LI Limited Industrial ("LI") and GI districts, and allowed by right in the Air Force Base ("AFB") District, subject to Supplementary Use Regulations Sec. III-D.6.e (1) the use is not abutting an arterial street, expressway or freeway; (2) in the opinion of the Planning Commission, the use will not adversely affect the character of the neighborhood; and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent the area of such fence. With respect to the requirement that the use not abut an arterial street, planning staff has been advised by the Office Central Inspection that as long as the use is located at least 150 from arterial street right-of-way it is considered to not be abutting. The existing chain-link fence depicted on the submitted site plan does not meet the opacity requirement mention above. The screening wall needs to also meet the standards outlined in Sec. IV-B.3.h: screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood. In the past, staff has received complaints regarding the use of large rectangular concrete blocks as screening material. It is recommended that such fencing material be prohibited from meeting the screening requirement.

Surrounding property is all zoned GI, and is used for a variety of industrial uses including warehousing, steel fabricating, grain elevators, outside storage of trailers, offices and manufacturing, and salvage and wrecking. Glickman Metal Recycling is located just east of the application area, and contains significant piles of scrap metal.

CASE HISTORY: The site appears to have been zoned heavy industrial in 1958, and was platted as the North Industrial Park Addition in June 1972.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	General Industrial; elevator, manufacturing
SOUTH:	GI	General Industrial; grain elevator
EAST:	GI	General Industrial; outside storage of semi-truck trailers and mobile home-type trailers, warehousing
WEST:	GI	General Industrial; outside metal recycling; steel fabricating

PUBLIC SERVICES: 29th Street is a paved four-lane arterial with approximately 50 feet of half-street right-of-way. Meade is a paved two-lane street with 35 feet of half-street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this site as being appropriate for "employment / industry center." Employment / industry centers encompass areas with uses that constitute center or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The GI zoning district is the most intense zoning district contained in Wichita-Sedgwick County Unified Zoning Code ("UZC"), except for the Air Force Base ("AFB") district.

The application area is still subject to the amended November 27, 1972, General Urban Renewal Plan. The General Land Use Plan map of that document depicts this site as appropriate for "heavy manufacturing" that is a category of industries which are apt to have an extensive impact on the surrounding area. Included are heavy assembly and fabrication uses which may create considerable traffic volume, noise, dust, odor, blast and smoke. Floor area to lot area ratio shall not exceed 3.00 with maximum lot coverage limited to a maximum of 50 percent. As currently developed the site complies with these development standards.

The January 4, 2005, 21st Street North Corridor Revitalization Plan's Preferred 20+ Land Use Plan depicts the site as appropriate for "general industrial" uses, that acknowledges the importance of heavy industry in the Wichita region and specifically the importance of rail dependent uses in the plan area. Rail dependent and heavy industrial uses are allowed in this category. Light industrial uses area also allowed.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials. Recycling, salvage or wrecking activity is not permitted within 150 feet of 29th Street's southern right-of-way.

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited.

3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned GI General Industrial, and is used for industrial activities ranging from outside storage of trailers, warehousing, manufacturing, steel fabricating or wrecking and salvage. The wrecking and salvage operation has extensive piles of scrap.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GI General Industrial which permits a very wide range of commercial, office and industrial uses. The site is developed with an office building and has some room for additional building. The site could be used as currently zoned; however, there has been increasing interest in wrecking and salvage, as demonstrated by two recent development applications within the vicinity of this application, and city-wide there have been a total of 10 requests in the last two years.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval are designed to minimize foreseen impacts to nearby property owners.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide another location for the disposal of scrap material. Denial would presumable present the prospective purchaser with delays that could result in a loss of income and business opportunity.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with adopted plans as described in the conformance with plans and policies section located above.

6. Impact of the proposed development on community facilities: Existing community facilities are in place to address anticipated demand on community facilities. Truck traffic would potentially increase but the streets in the area were developed to accommodate industrial traffic.

DALE MILLER, Planning Staff presented the Staff Report.

He reported that Cargill was not related to this application, it is an application by Midwest Scrap Management, Inc. He said the sale had not been finalized when the ownership list was received from the title company. He reported that eight to nine people spoke in opposition to the proposal at the DAB VI meeting. He said the DAB voted 5-0 to recommend denial of the request. He said he would like to address some of the questions that came up at the DAB meeting in case the same issues come up today. He said the Glickman northern property line is 640 feet from 29th Street and he said 29th Street is 571 feet from the rear of the existing (formerly Cargill) building at the site. He said another issue that was discussed was the 2005 application located further north of 33rd Street on St. Francis which was the Campbell's wrecking and salvage application. He said that case was put on hold by the MAPC while staff developed an amendment to the Unified Zoning Code (UZC) which would have liberalized the recycling processing code. He said that proposed amendment was denied by the MAPC. He said the Campbell's took their case to the City Council who in turn denied their proposal.

MITCHELL asked so to the best of staff's knowledge the Campbell operation is still going on.

MILLER said yes. He said the original legal use is going on, but they did not get approved for the extra recycling processing they requested. He said how legal the operation is today may be debatable.

BOB KAPLAN, AGENT FOR THE APPLICANT introduced **NICK HAYES, MIDWEST SCRAP MANAGEMENT, INC.** who he said will be managing the local facility if the proposal is approved. He showed a short slide presentation of the operation including the proposed sample screening fencing, which was cast concrete. There was also a short slide presentation entitled "Today's Scrap Recycling Industry" by the Institute of Scrap Recycling Industries, Inc.

KAPLAN commented that **MR. HAYES** was present to answer any questions regarding the operational aspect of the proposal. He said **RUSS EWY, BAUGHMAN COMPANY, PA.,** was present to speak to the land plan and **GRANT TIDMAN, J.P. WIEGAND,** was present to discuss finding an available site. He said this site they have acquired is appropriate for this type of business because it is in a GI General Industrial zoned district. He said the Bridgeport area permits outright most manufacturing and large industrial uses such as asphalt and concrete plants, gas and fuel storage, landfills, rock crushing operations, transfer stations and wrecking and salvage operations. He said Bridgeport is an industrial area and that is why it is zoned the way it is. He said what they propose is similar to the Glickman Iron and Metal shredder next door, which they feel is the beauty of the site, a similar use already exists in the area. He said they will build screening along 29th Street and have no plan to do anything with the building so that will remain as is to buffer and screen to 29th Street. He said the operations and shredding will take place on the south side of the site. He said all non-ferrous metal will go inside the warehouse. He said steel will be stored outside. He said GI is the most intensive zoning district. He said this proposed use complies with the 2030 Functional Land Use Guide and also with the 21st Street North Corridor Revitalization Plan. He said the property is attractive because it is already zoned properly and it is next to rail service which is critical to a wrecking/salvage operation. He said all scrap materials are shipped out by rail car. He said there are environmental monitoring wells on site; they have a dust suppression system and they will screen off the shredder. He said they feel all conditions in the Staff Report are appropriate and they will comply. He said they located this property after a two-year search and that Midwest Scrap Management will be investing approximately $20 million in the operation. He said they operate "state of the art" facilities and referred Commissioners to the booklet distributed as a handout with pictures of the Kansas City operation. He said he understood the neighborhood opposition and the complaint that the storage piles exceed the height of the screening fence, but he said they will have those two objections no matter where they go.

MOTION: To give the agent/applicant an additional two minutes.

HENTZEN moved, **DOWNING** seconded the motion, and it carried (11-0).

NICK HAYES, MIDWEST SCRAP MANAGEMENT, INC., 5539 RUSSELL STREET, MISSION, KS said this will be a "state of the art" shredding operation. He said they will invest $20 million in the shredder alone in addition to the property, equipment and additional materials they will acquire for the site. He said this site will be built from the ground up and will be environmentally compliant. He said there is ground water monitoring on site and they will use a closed-loop water injection system to keep dust down. He said the closed loop system injects water into the mill where the material is shredded and the system recycles the water. He said the machine will have a screen over the area where material falls. He said they use a produced called "Fluff" for trash which is a favorite of local landfills because it provides a top coat which helps with odor control. He said the system they would like to install shreds 300 tons an hour. He said it can shred one car and sort it every 15 seconds. He said all cars will have gas tanks and fluids removed from the cars before shredding. He said they will be generating additional revenue streams for materials, equipment, trucks, etc. to service customers in the area.

HILLMAN asked about a fence tall enough to cover and shade materials.

HAYES said the piles of material will be right around 30 feet which is what they keep at their current location. He said the material will be piled in the middle of the operation and he didn't know what height would be high enough to cover that. He said the machine processes materials very quickly so the majority of piling will be about the size of a fist and that will be shipped out to be reused. He said they will build a cast concrete fence to the height that is required.

MARNELL asked about the existing shredder that has explosions and asked if that was from the gas tanks?

HAYES said yes, but they will require that gas tanks be removed before they accept cars at this facility.

MITCHELL clarified that **MR. KAPLAN** said the proposal complies with the 2030 Functional Land Use Guide.

KAPLAN replied yes sir it does.

MITCHELL asked how many employees are anticipated at this operation.

KAPLAN said between 30-40 initially, and probably expanding to 50-60 and they will not be minimum salary jobs, but skilled individuals like truck drivers and machine operators, which he said they believe fits the description of "employment industry center."

KLAUSMEYER asked for a clarification on the screening.

KAPLAN said the fence will be solid cast concrete. He said the UZC requirement is eight feet in height; however, they will take the fence to any reasonable height that the Commission requires.

RICK LOWE, 1509 SOUTH SPRINGHOLLOW CIRCLE said he owns and operates a business in Bridgeport and that he was present as President of the Bridgeport Area Business Association (BABA) which was founded in 2007. He said one of the first things the Association did was contact city staff and start working on land use issues just like the type of things that are being discussed today. He commented that the group has a great deal of regard for Planning Staff and their tremendous help with what the Association is trying to do in the Bridgeport area. He said there are several reasons why BABA members object to this proposal. He said he would like to take exception to staff's findings, specifically item #5 on page 4. He said he was not sure if he agreed with the comment that this is in accordance with the Comprehensive Plan, especially the 21st Street North Corridor Revitalization Plan. He mentioned a previous case which was CON2005-11, a conditional use for wrecking and salvage that was denied because of the conflict between the proposed use and the 21st Street North Corridor Revitalization Plan and added that property was not located on an arterial. He also mentioned item #3 which talked about the extent to which removal of the restrictions will detrimentally affect nearby property. He said the salvage piles can be up to 30 feet high. He said at the company's current operations in Kansas City, (which another speaker has pictures of) the piles look to be considerably taller than that. He said an eight-foot screening fence is not going to do a whole lot to block a 30-foot pile of scrap metal. He said it is impossible to have a 30-foot high pile of metal with only a 150-foot setback from the arterial and not have a detrimental effect on nearby property. He reiterated that DAB VI voted unanimously to deny the request. He referred to the booklet entitled "Bridgeport Area Business Association – Working Together for Business Success" which highlighted the types of businesses that are located in the Bridgeport area. He said although it is a GI zoned area which is the heaviest use in the zoning code, a lot of the businesses in the area are very nice, high quality, very pristine and if this request is approval, it will be very detrimental to the businesses in the area. He mentioned several other businesses that have located to Bridgeport and made multi-million dollar investments in the area.

MITCHELL asked for an estimate of the number of employees in the Bridgeport business district.

LOWE responded off the cuff between 5,000 – 6,000 people.

HILLMAN commented that there were nice businesses in the area that he has visited and done business with and he appreciates what they are trying to do. He said he noticed Glickman, as well as a number of other salvage yards, was not one of their members. He asked if BABA has approached those people.

LOWE said yes. He added that BABA refers to itself as the area east of Broadway; west of I-135; south of the Big Ditch; then south of 29th Street to 25th Street. He said they have members south of 29th Street, but Glickman is not on the list because they have not joined BABA. He said Glickman has talked to them about on-going land use issues and cleaning up the area.

HILLMAN asked if they have had discussions concerning screening fences or containment of blowing of trash.

LOWE responded to date, no they haven't

HILLMAN asked if the Commission approves this application, will BABA have interactions with this group.

LOWE said that discussion is appropriate for this board to have if the application is approved it is reasonable and prudent for this body to discuss types of restrictions such as the height of the screening and depth of setback. He said he doesn't think the 150-foot setback noted in the report is adequate. He said that would allow the piling of scrap three to four stories tall north of the frontage of the building. He said if the application is approved there is nothing that would keep them from tearing the building down and stacking material up to 29th Street.

LEONARD HICKS, 2230 CARDINAL DRIVE, MEMBER OF BABA said he owns two buildings in the Bridgeport area. He said he took time to take pictures of Midwest Scrap Management's Kansas City operation, which he referred to in a presentation. He mentioned a conditional use case from 2003 that requested expansion on 21st Street east of Broadway and at that time Planning Staff stated expansion of salvage operations in this corridor was a major concern due to the recruitment and retention of industrial businesses. He said he has previously lived in Kansas City and that there was a constant problem with salvaged cars because the salvage yards did not take gas tanks. He said the gas tanks were basically thrown all over the city. He said 135 is an elevated expressway that looks down into this area. He said an eight to ten-foot screening fence is not going to help. He said the gas tanks are a major concern of his. He concluded by stating that Glickman was a non-conforming site that should not be taken into consideration to accept this use. He referred to the picture presentation which showed that most of the piles were over 30 feet tall.

FARNEY asked if that location was in the state of Kansas or Missouri.

HICKS said Kansas City, MO. in a hidden area so the fencing was not as critical.

TOM OLSEN, EXECUTIVE VICE PRESIDENT, HOC INDUSTRIES, 3511 NORTH OHIO said he has worked for HOC Industries for 29 years. He said they moved to Bridgeport in 1997, when there wasn't much up there. He said within the last 10 years millions of dollars have been invested in property in the area including several Fortune 500 companies including Wal-Mart, Family Dollar, Dollar General, Coleman Company, U.S. Department of Defense, Bed Bath and Beyond and many others. He said they

have corporate clients that come to their offices. He said Johnson Controls, who has 1,200 employees, also has corporate clients coming in and they were a major objector to the 2005 application that was eventually rejected by the MAPC. He said they have spent millions of dollars to make a nice business park in this area. He said he understood that there has to be recycling somewhere, but that there were certain things that just do not fit in this area. He said the Planning Department is currently working with BABA to create a "protective overly" which will give them the opportunity to attract other quality businesses into the area who may employee 500-1,000, and they have the area to do it up there. He said these types of businesses are not going to move into areas that have salvage yards, he can guarantee and in fact, some businesses may move out if this continues to happen. He said once these things are approved it opens "Pandora's Box" for those types of businesses to come in all over the area. He said BABA has made tremendous strides and they would appreciate it if they didn't go backwards. He reiterated that DAB VI recommended denial. He said this business is just not a fit for the business park. He said the Planning Department is currently working on a protective overlay for the area and added that there are several types of businesses they would like to exclude including wrecking and salvage type operations. He said a wrecking and salvage yard is not a "permitted business" in GI zoning. He said it is only permitted with a conditional use. He said he thought it was kind of arrogant to buy a property and spend that much money knowing you haven't got permission to use it as a wrecking and salvage yard. He referred to map which showed the businesses that are willing to agree to the protective overlay. He said they defined the Bridgeport area as businesses on Meade, 25th Street, Ohio and boundaries of Broadway, 135 and 29th Street. He said the owner of the company owns a lot of property in the area and they are concerned about the value of their properties falling. He said they have one piece of property directly across the street from this site and they are scared to death that the property will be worth zip if this conditional use is approved. He concluded by asking the Commission to support denying this application.

MARNELL asked if the Glickman Salvage operation has been there for an extended period of time?

OLSEN said Glickman has been there since they moved in 1987.

MARNELL asked about another salvage operation north of 29th

OLSEN said the only other one he can think of since 1986-87 is the Campbell's, but he said that is very limited but neighbors say they are not abiding by the limitations on which they received the permit.

MARNELL asked what type of business was that.

OLSEN responded a recycling business but they are not supposed to be doing any industrial recycling.

MARNELL asked if he had any idea how long that business has been there?

OLSEN said a couple of years.

MARNELL commented then it is relatively new, but Glickman has been there a long time.

OLSEN said yes it has and been a physical blight to the area for a long time.

MARNELL commented so your company still chose to build there anyway?

OLSEN said yes they did.

BOB ALDRICH, VICE PRESIDENT FOR WINDY CITY RAILWAY SERVICES, MEMBER OF BABA said for the last couple of years BABA has been working with Planning Staff to develop a

protective overlay to limit the type of businesses that are going into the Bridgeport area such as salvage yards, rock crushers and sexually oriented businesses. He said this is a very pristine industrial park area with nice, clean types of businesses. He said a salvage yard will have a detrimental effect on the other businesses in the area. He said these businesses have sunk millions of dollars into their businesses and clean up of the area. He said at one time it wasn't so nice up there. He said these businesses employee 6,000 plus employees. He said this area is literally the gateway to the northern part of Wichita along I35. He said the first thing you see is this nice industrial park area. He said if this salvage yard is approved, it will be the first thing that will hit you as you drive into Wichita and it will have a negative effect on Wichita. He mentioned the photographs of the Kansas City operations with a crane and a pile of scrap that is well over 60 feet high. He said no screening, unless you come up with a bubble, is going to hide that from the area. He said he believes this is going to have an adverse affect on some of the other businesses and he is afraid that once the door is opened up, they will not be able to stop it because of the zoning. He said just because it is a GI area and everything is allowed in there but the kitchen sink doesn't necessarily mean that all types of businesses are appropriate for the area. He said especially after they have spent many hours developing the protective overlay. He said it is very rare that businesses come in and police themselves. He said this is a unique area to the City. He concluded by asking the Planning Commission to deny this because this would have an adverse effect on what they are trying to do in the area. He commented that Campbell Recycling is very limited in what they can do, but they are doing baling, scraping and processing which they do not have permission to do. He said they came back to the Commission and tried to get approval but he recalls that Commissioner McKay commented at the time of the denial that it would have an adverse effect on the quality type industrial park they are trying to do at Bridgeport.

MARNELL asked if the type of business he conducts at his location could be conducted in a lower zoning classification than GI.

ALDRICH said his office is located downtown, but he is a member of BABA. He said he buys and sells railroad car parts, so that is not issue with the Bridgeport area.

RITA _____HOSPITALS OF HOPE, 3545 NORTH SANTA FE said she was present to express her concern about this issue. She said she agreed with Mr. Lowe and Mr. Hicks and said there was no way that this kind of visual blight and noise pollution will not affect property values in a negative way. She said they are also concerned that this may cause increased crime by lowering property values and providing motivation for crime. She said they have had issues in the past when parts were stolen off of their vehicles for scrap and they are concerned that this could happen again.

MARNELL asked if she knew if Hospitals of Hope could operate in lower zoning than GI.

RITA _____ said they are a non-profit organization with an office and warehouse located in Bridgeport and that she didn't know exactly what the zoning requirement would be for that.

DENISE GERBER, 2612 N. LONFGELLOW, FINANCIAL MANAGER AND RECORDING SECRETARY FOR MOORES COLLECTIONS, LLC. she said Moores Collections invests in commercial real estate and leases property for rental income. She said typically they hold real estate long term and acquire quality and functional properties in good locations and lease them to financially sound and quality tenants that take pride in operating their businesses at these locations. She said last June the company acquired 3030 N. Ohio, which is located two blocks east of 29th Street and Meade. She said this 10,000 square foot warehouse is located in the Bridgeport Industrial Park and they have made a substantial investment. She said they were successful in leasing the property in less than 6 months to a truck servicing operation, which they felt was good considering the downturn in the economy. She said the tenant and company have made substantial investments in property improvements. She said their

major concern is retaining the economic value in this property. She said they are worried that the market value of this property will be difficult to sustain if this conditional use for a scrap yard is approved. She said they worry if they will have difficulty retaining their current tenant or attracting any future tenants. She said they are also concerned about visual blight. She asked the Commission to visualize three floors of piled junk cars or scrap metal. She also mentioned potential noise, airborne and ground pollution, and extra traffic. She said they believe allowing a wrecking and scrap operation will detract from other businesses in the area and negatively affect property value; therefore, they oppose the proposed conditional use.

JOHN C. WADSWORTH, 1418 SPORT OF KINGS, PRESIDENT AND OWNER, PIPING AND EQUIPMENT CO., 1111 EAST 37TH STREET NORTH said they are a 64-year old mechanical contractor that builds refineries, power plants, pipelines and other stuff that people don't want in their backyard. He said they have been in the Bridgeport area for 64 years and employee anywhere from 150-300 employees on a full-time basis and spend between $10-$15 million dollars per year in salaries. He said they were located on North Topeka Street, but three years ago he purchased property on North Ohio and 37th Street and has invested approximately $3.5 million dollars on that manufacturing facility that includes an office building and fabrication shop. He said he is against the proposal and staff report and recommendation. He said he believes they need to ask more questions on some of the staff report recommendations. He specifically referred to page 4 of the report, item #5 that talked about storage of materials, bales, and scrap metals on surfaces approved by the Office of Central Inspection (OCI). He said he did not know what an "approved surface" was and he said he was not sure whether OCI has the staff to enforce that, which he said has been proven over and again by the condition of the Campbell Scrap Yard. He said the Campbell Recycling Center has a lot of industrial waste that is not permitted but they continue to be in operation. He referenced item #7 that talked about "storage of all metals shall be organized and in an orderly manner." He said he was not sure what that definition means. He asked how you store scrap metal that is over 30-feet tall. He mentioned Cornejo's storage of materials in south Wichita and said he assumed that was considered orderly. He mentioned item #9 which talked about weed control. He said he would like to know how to do that on his eight acres because weeds are very tough to control. He mentioned Kansas Department of Health and Environment (KDHE) regulations and said he would like to know how you take in salvage vehicles without liquids. He asked how you get liquids out of vehicles and motors. He said he understands gas tanks will not be part of this process and will be disposed of in other places. He concluded by saying in short Piping and Equipment located on North Ohio is against staff's recommendation without further information.

MARNELL asked if Mr. Wadsworth's manufacturing facility required GI zoning?

WADSWORTH responded yes, their operation requires GI type zoning. He added that when he was recruited to move his business to Park City, he decided to stay in the Bridgeport area because of the zoning and the location of the highways. He also said he believed the Siemens plant would have been located in Wichita if the city had done a better job of promoting the Bridgeport area.

LOU EFTINK, PRESIDENT OF DESIGN BUILD CONSTRUCTION said he also bought property a couple of years ago at **1330 E. 37th STREET NORTH.** He said he is a member of BABA who has been working diligently on a protective overlay. He said he strongly opposes this proposal, not because he agrees there are areas that you can put this operation other than GI. He opposes it because the applicants themselves said everywhere they go they are opposed to. He said because they pile trash so high and then only have an eight-foot fence, they are not trying to be a good neighbor. He said he does not have the answer. He said he knows things can be done inside and that things don't have to be piled 30-feet high. He said these are not even options. He said once they move in, they can pile debris 30-feet high and are not limited to three stories; it can be up to four and five stories. He said we can't control it. He said just because Glickman is there, they can't change that but they don't have to compound it. He said they are

just asking that they become a good neighbor and figure out a solution. He said they are the ones bringing this problem into the area. He said anyone in this room who owns property knows this is not going to increase the value of their property. He said he strongly opposes this until they come up with an environmentally friendly plan to be in an upper end industrial zone. He asked the Commission not to accept the proposal as it was presented today. He said once they are there OCI does not have authority to enforce the conditional use and the language is so generic, how do they enforce it? He asked how you define controlling weeds. He said they are battling in other areas and when it is brought to the City's attention, someone says that is acceptable. He concluded by saying that the City spends a lot of time trying to enforce something that just should not have been approved to begin with.

KAPLAN referred to a map that depicted 12 recycling facilities, scrap facilities, and auto recycling facilities between 21st and 31st Streets, and from the Bypass to Broadway. He said those are similar industries to what he is seeking a conditional use for today. He said there are one dozen of them and there is a reason they are located within this area. He said they are not there coincidentally or by accident. He said they are there because that is the area that was designed and planned to house them. He said they are concentrated in that area for a reason, it just didn't happen. He said that is where the City put them because that is the suitable area for them. He said they have GI zoning and access to rail. He said he tries very hard not to put on his lawyer's hat and not to get adversarial at administrative hearings; he saves that for the courtroom. He referred to several slides of areas located in Bridgeport. He said the slides are self-explanatory. He said they have heard that this is a pristine area. He mentioned the recycle oil plant, trailer storage and a pipeline. He commented these slides are the nature of area the area and that is what you see from 135 and the immediate neighborhood. He said this is an industrial park that houses many recyclers and salvage operations. He concluded by saying that he tried very hard to get a meeting with these folks to discuss these matters and said he got no response.

HENTZEN asked when this area for this type of activity was established by the City?

MILLER said between 1937 and 1958. He said when researching that question, he found a 1937 map that showed "F" Zoning which was the old heavy industrial designation south of 29th Street, then in 1958 there was a City map that showed heavy industrial zoning up to 37th Street.

SHERMAN referenced a letter in the applicant's packet from Westar Energy concerning energy estimates from someone who reports to him. He said this was a service Westar provides to all new customers. He asked if that put him in conflict on this proposal.

LANG said he would not think that would cause a conflict of interest. He said that was someone providing information and not part of the application.

HENTZEN said he should ask the same question, since he owns and operates out of 3711 N. Hillside.

LANG said that address was not located in the notice area for this application.

MITCHELL said he was going to recommend denial of the application on the basis that it is not compatible with the 2030 Functional Land Use Guide; does not increase the potential for employment and it has not been shown to be a compatible use for this area.

MOTION: To deny the application.

MITCHELL moved, **HILLMAN** seconded the motion.

MARNELL said he was going to be the "odd man out" today. He said he was going to make a substitute motion to approve per staff comments. He said he has commented before that this is zoned GI, which is the most heavily zoned area the City has. He said since the 1970's the City has spent a lot of money dealing with groundwater issues in the Bridgeport area to make the land usable for industrial use. He said he believed some purchasers took advantage of the lower land costs in the area and now want to have the area be something other than what it is which is a heavy industrial area. He said that is why he is making the motion.

> **SUBSTITUTE MOTION:** To approve subject to staff recommendation. (And later added a 35-foot height restriction and that no materials could be stored outdoor further north than the south side of the existing building.)
>
> **MARNELL** moved, **SHERMAN** seconded the motion.

SHERMAN asked if there was any limitation on how high the stacks can be.

MILLER said he couldn't remember if there was a height limit in the zoning district, but said typically that is a building issue which means it is unlimited, other than just being able to hold the pile with a slope.

SHERMAN asked if it was prudent to amend that motion to have a height limit.

MILLER responded that the Commission could place a maximum height limit.

MILLER commented there was an 80-foot building height limit.

MARNELL suggested a maximum of 35-feet in height.

HAYES commented that they would be okay with 35-feet if that is what it takes to satisfy the Commission.

HILLMAN asked if they would be willing to build a 35-foot wall.

HAYES said he didn't know if that was possible. He said they would like to work with the Commission, but he didn't know about that.

HILLMAN suggested a 20-foot wall and limiting the stacks to 20 feet.

HAYES commented that 20 feet was pretty low and they would rather get approval for something that was 30-35-feet high.

SHERMAN asked about the buffer from 29th Street.

HAYES said the building was going to remain, but if the Commission would like more restrictions where they are actually storing materials outside, they would be fine with that. He said they have no intention of storing materials in front of the building on 29th Street.

KAPLAN asked for clarification on the height restriction.

SHERMAN said 35-feet from the motion maker.

KAPLAN replied that they would accept the lesser height restriction if that was the will of Commission.

MARNELL said he would like to change the substitute motion to include a 35-foot height restriction; and no materials being stored outdoor further north than the south side of the building.

HILLMAN asked the motion maker if he wanted to add anything to the eight-foot designated wall.

MARNELL responded that he didn't think there was anything you can do in terms of the interstate being an elevated road. He said as far back from 29th Street as this operation is going to be, he said he believes it will pretty much over most of the operation.

FOSTER asked if the there has been any discussion about limits of the proposed protective overlay within this GI zoning

MILLER deferred to **DONNA GOLTRY,** Planning Staff.

GOLTRY said geographically the protective overlay mostly focused on 29th Street and south. But he may want to ask the members of BABA who were present for clarification on that.

FOSTER clarified that if for unknown reasons the building is taken down at the site, the only requirement is an eight-foot solid screening 150 feet south of 29th Street.

MILLER asked for clarification of the current motion to see if the height of the screening was higher than the 8-feet required by the UZC.

FOSTER asked for clarification on the protective overlay limits.

MILLER explained that the property owners in the area submitted a proposal, but that staff doesn't have anything drafted up yet.

HENTZEN said this question applies to the bigger picture of Wichita and Sedgwick County because of the hundreds and of thousands of cars. He asked what are we going to do about them if we can't put them in the lowest zoning area that the City has? He said this is a real problem and suggested that they get it settled because they spend three to four hours on discussion every time there is an application for a salvage yard. He said what are they going to do and what should they do?

DIRECTOR SCHLEGEL commented that sounded more like a rhetorical question. He said Wichita-Sedgwick County does not have a wrecking/salvage yard plan. He said each case is addressed on a case-by-case basis, with each case being judged on its individual merits.

MITCHELL asked that the map be displayed reflecting salvage operations in the area. He said with all those salvage companies in one area, it doesn't seem to him like there is a pressing need to add one more.

HENTZEN said he thinks it is pressing with the number of cars in the area.

SUBSTITUE MOTION PASSED (6-5).
DOWNING, HENTZEN, HILLMAN, MILLER STEVENS and **MITCHELL** – No.

John Wadsworth

From: Miller, Dale [DMiller@wichita.gov]
Sent: Monday, March 29, 2010 3:00 PM
To: John Wadsworth
Subject: RE: CON2010-00008 Protest - Piping & Equipment

The Law Department has advised us that we cannot count e-mailed protests unless there is a signature. One easy solution would be for you to print this e-mail, sign it and fax it to me at 268-4390.

From: John Wadsworth [mailto:john.wadsworth@pipingequ.com]
Sent: Monday, March 29, 2010 2:35 PM
To: Miller, Dale
Subject: Fwd: CON2010-00008 Protest - Piping & Equipment

John C Wadsworth
316.619.5944

Begin forwarded message:

From: "John Wadsworth" <john.wadsworth@pipingequ.com>
To: "JLMiller@wichita.gov" <JLMiller@wichita.gov>, "cbrewer@wichita.gov" <cbrewer@wichita.gov>, "JLongwell@wichita.gov" <JLongwell@wichita.gov>, "pgray@wichita.gov" <pgray@wichita.gov>, "JSkelton@wichita.gov" <JSkelton@wichita.gov>, "sschlapp@wichiita.gov" <sschlapp@wichiita.gov>, "LKWilliams@wichita.gov" <LKWilliams@wichita.gov>, "RLayton@wichita.gov" <RLayton@wichita.gov>
Cc: "john.wadsworth@pipingequ.com" <john.wadsworth@pipingequ.com>
Subject: CON2010-00008 Protest - Piping & Equipment

Ms. Miller
Attached is my opposition to the MAPC decision to allow a conditional use at 2901 N Mead. This conditional use would allow Midwest Scrap Management to develop a scrap yard with 35 foot tall stacks of scrap cars at 2901 N Mead. I look forward to hearing more facts about this company and their proposed operations as I do not believe the MAPC, MAPC Staff or DAB IV has been provided accurate information by the company or their agent, Robert Kaplan.

"We make a living by what we get, we make a life by what we give"
Sir Winston Churchill
[cid:image003.jpg@01CACEA4.7341A200]
John C. Wadsworth
john.wadsworth@pipingequ.com<mailto:john.wadsworth@pipingequ.com>
316.295.2911 (O)
316.619.5944 (C)
316.838.2014 (F)

This communication, including attachments, is for the exclusive use of addressee and may contain proprietary, confidential or privileged information. If you are not the intended recipient,

PIPING & EQUIPMENT CO., INC.
P.O. BOX 1065 WICHITA, KANSAS 67201

COPY

March 28, 2010

ATTN: MS. Janet L. Miller
City of Wichita
455 N.Main Mail Stop 1-13
Wichita, KS 67202-1688

Reference: CON2010-00008 – City Conditional Use to permit wrecking and salvage at 2901 N. Mead

Dear Ms. Miller:

As president and owner of Piping & Equipment Company, Inc. located at 1111 East 37th St North, I am **opposed** to the MAPC decision on March 18, 2010 to approve the conditional use permit for Midwest Scrap and Management, Inc. I believe Robert Kaplan the agent for Midwest Scrap and Management and Mr. Nick Hayes the proposed site manager for Midwest Scrap purposely and willfully mislead the MAPC and the MAPC staff. I do not believe the following items have been addressed by the MAPC in their 6-5 voted to approve the conditional use for 2901 N. Mead.

1. The attached map presented by Mr. Kaplan indicates there are 12 approved and operating scrap facilities in the area zoned GI between 21st Street North and 32nd Street North between Broadway and approximately I-135.
   a. Item 2 of Mr. Kaplans ledgend shows C&W Auto Salvage which in fact is a residential area,
   b. Item 5 is not a permitted wrecking and salvage yard – the business is permitted as a recycling facility of household waste,
   c. Items 8 and 11 are the same facility and business,
   d. Items 2 and 6 are the same business and not two separate salvage yards.

This map presented to the MAPC during Mr. Kaplan's rebuttal is very mis-leading.

2. Mr. Kaplan stated during his rebuttal that he had attempted to contact the eight business representatives who spoke against this conditional use request when in fact he had not tried to contact any of the eight business representative present at the MAPC or others who were present at the DAB VI meeting.
3. Midwest Scrap and Management, Inc. have indicated to the MAPC staff, "It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day". During the MAPC Midwest Scrap management stated there could be 60 trucks per day using the facility. 60 trucks per day is significantly differ than 30. What is the honest answer?
4. The MAPC Staff Report indicates the Applicant / Agent is Cargill Meat Solutions Corporation (property owner), Midwest Scrap Management. (prospective purchaser) / Robert Kaplan (agent). It is unclear to DAB and MAPC who the applicant is and who has title to the property.

No one in the MAPC hearing or the staff report is addressing the rail car issue. I believe when rail cars are switched into or from the facility, 29th Street North will be blocked. 29th Street north is one of the main arterial East – West street in this area.

Midwest Scrap management indicates all vehicles will not contain oils, liquids, and gas tanks. I question how this is possible as vehicles have oils, liquids, lubricants throughout the vehicle. It is well know that old propane bottles which cannot be recycled are disposed of in vehicles which are scraped. When the vehicle is crushed and shredded these propane bottles explode creating an unsafe environment. No one can address where the gas tanks from these vehicles will be

PO Box 1065
Wichita, Kansas 67201
P 316.838.7511 - F 316.838.2014

1111 East 37th St. North
Wichita, Kansas 67219
www.pipingequ.com

disposed of properly. Any inspection of wrecking and salvage yards currently operating can identify environmentally unsafe liquids on the ground. There are no positive environmental impacts that approval of this conditional use permit will provide the City of Wichita. Traffic volume from 20, 30, 60, or whatever the real number of trucks using the facility is will create traffic issues; noise, dust, odors, and blast from the operation of the facility are all negative issues.

The approval of a conditional use permit for this site are not consistent with the 2030 Wichita Functional Land use. The functional land use category for this site is "Employment/Industry Center" which states this category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

Limited research of Midwest Scrap Management's current operations in St. Joseph, MO should lead to questions on corporate compliance with local, state, and federal regulations. The DOT Federal Motor Carrier Safety Agency indicated Midwest Scrap Management, Inc. USDOT Number 474469 had 80 DOT inspections in the last 24 months which resulted in 40 out of service citations (55.6% whne the national average is 22.27%). Midwest Scrap Managements Vehicle Inspection Indicator is 98.9% which indicates that 98.9% of the time a vehicle operated by Midwest is inspected by DOT a violation is determined. On February 20, 2004 Midwest Scrap Management had a three alarm fire at their St Joseph facility, the seventh fire in a four year period. To quote the St Joseph Fire Chief Jack Brown, "This time, Mr. Brown said he is fed up with the continuous fire calls to Midwest Scrap. This last one really sent a message to them, he said. "I told them no more, that's it. We've spent our last 24 hours at that scene"".

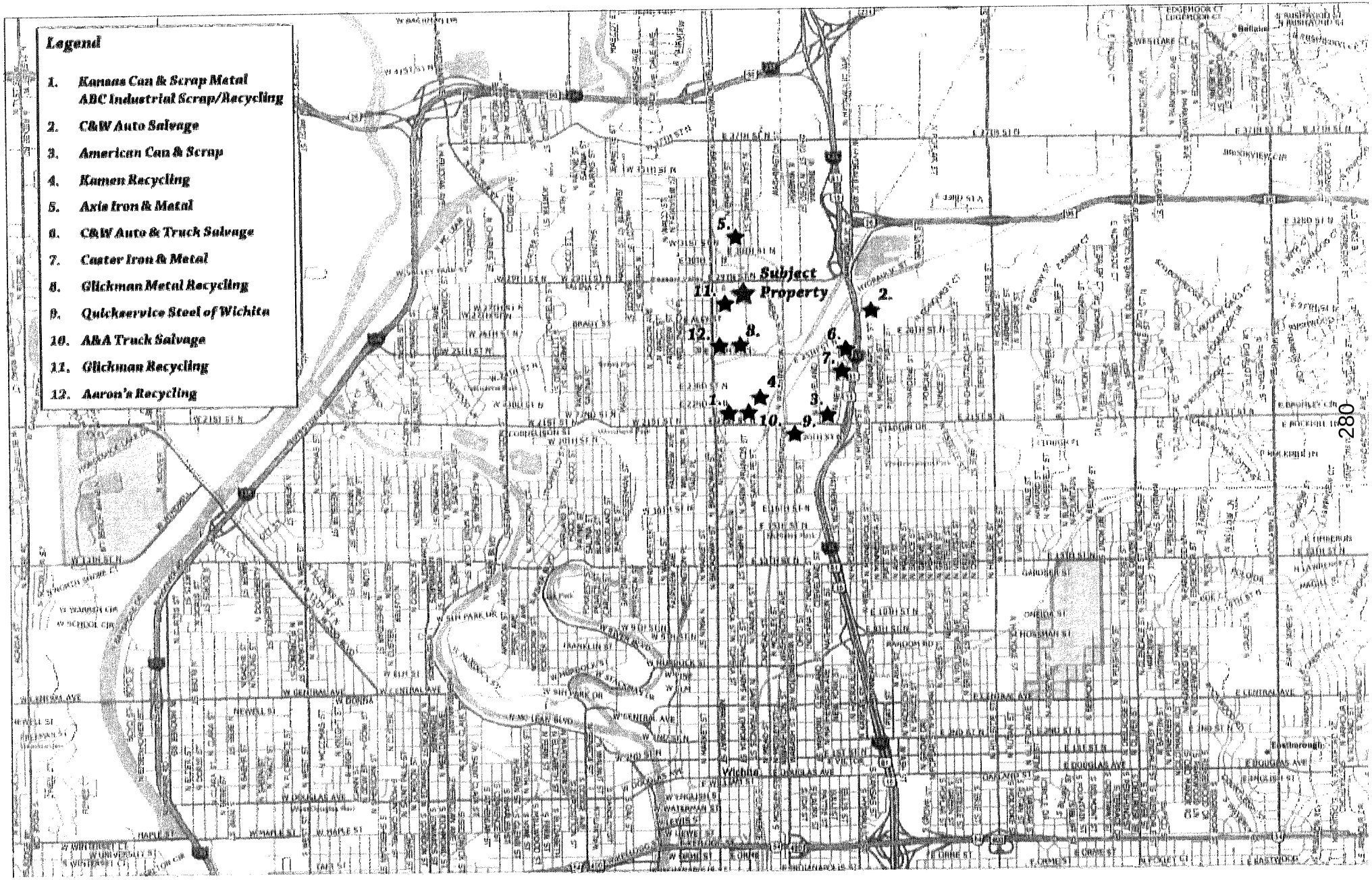
The Bridgeport Area Business Association has been working with the City of Wichita Planning department for over one year to develop a protective overlay for the Bridgeport Area. This protective overlay would support the 2030 Wichita Functional Land Use Guide. When the City of Wichita created the Bridgeport Industrial Park, it was the City vision to have a manufacturing area and transportation area to support economic development. This City vision is BABA's vision: Dedicated to maintaining and improving the appearance and safety of the area as well as establishing a vehicle for collaboration of business expertise that would help business grow and benefit employees, owners, and the community. Approval of this conditional use permit for Midwest Scrap Management, Inc. is a major step backwards.

Sincerely,

John C. Wadsworth
President

CC:City of Wichita Council members: Williams, Schlapp, Skelton, Gray, Longwell
City of Wichita Mayor Brewer
City of Wichita Manager Robert Layton
MAPC Plans Manager Dale Miller

Encl: Kaplan Map
Bridgeport Photos


Legend
1. Kansas Can & Scrap Metal
ABC Industrial Scrap/Recycling
2. C&W Auto Salvage
3. American Can & Scrap
4. Kamen Recycling
5. Axis Iron & Metal
6. C&W Auto & Truck Salvage
7. Custer Iron & Metal
8. Glickman Metal Recycling
9. Quickservice Steel of Wichita
10. A&A Truck Salvage
11. Glickman Recycling
12. Aaron's Recycling
Subject Property
Wichita

Revised 06-11-2010 **Agenda Item No. X-1**

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: City Council Compensation

INITIATED BY: Mayor and City Council

AGENDA: Council Member Agenda

Recommendation: Receive and File.

Background: In 1974, the City Commission exempted the City of Wichita from a non-uniform statute to provide authority for the City to establish its own terms of compensation for the governing body. In 1992, the City Council adopted a Charter Ordinance setting the Mayor and City Council members' compensation, effective April 11, 1995. `In March 2001, the Council adopted Charter Ordinances No. ***187*** and 188 setting the Mayor's, ***Vice Mayor's*** and City Council Member's compensation.

The salaries and compensation of the Mayor, Vice Mayor and City Council members increased annually through 2003 and after 2003 the salary increase would equal the increase in the consumer price index (CPI-U or its equivalent) issued by the U.S. Department of Labor for the previous year, plus an automobile allowance as authorized by Council Policy.

Analysis: According to Charter Ordinances No.***187 and*** 188, the salary adjustments are calculated each June 7th utilizing the April to April CPI data. The salaries are effective July 10, 2010 for pay period ending July 23, 2010. The adjustments do not require specific action by the City Council; however the Mayor has requested this item to appear on the Council Member agenda for discussion.

Financial Considerations: The Mayor, Vice Mayor and City Council ***combined*** salaries will increase by 2.2% or $6,421 effective July 10, 2010 for one year.

Goal Impact: The City Council are representatives of all citizens, thereby affecting all of the City's goals of Quality of Life, Safe and Secure Community, Core Areas and Neighborhoods, Economic Vitality and Affordable Living, Efficient Infrastructure, and Internal Perspectives.

Legal Considerations: None.

Recommendation/Action: Receive and File

Agenda Item No. XII-4a

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Odor Control Contract with Natural Resource Protection (District IV)

INITIATED BY: Wichita Water Utilities

AGENDA: Consent

- -

Recommendation: Authorize the necessary signatures to enter into a sole source contractual agreement with Natural Resource Protection (NRP).

Background: In 1991 Water Utilities constructed six odor control stations throughout Wichita. These structures were designed to store and feed ferrous chloride into the sanitary sewers. This chemical has been used by Water Utility for 20 years as an effective and inexpensive alternative to other odor control products. With the addition of membrane technology at the new Mid Continent treatment facility, the ferrous feed site located at 2627 South Tyler will no longer be useable. In anticipation of this, staff started reviewing the use of other products in the late summer of 2009.

Analysis: Several different products were tested. Cost analyses were conducted on the different options. The product from NRP provided the most effective treatment for this line when considered over 20 years. The NRP product is fed at multiple points along the pipe line with units that are hung into the manholes. By using this technology the City is able to avoid the $400,000 capital expense of constructing a new feed site. The cost of materials required to treat this line is also similar to the past expense the City has incurred for ferrous chloride.

Due to their unique proprietary feed system, NRP is being suggested as a sole source provider of this material. NRP is able to feed the product directly into the sanitary sewer with no need for above ground locations. All other products would require above ground location(s) which is difficult to identify and often times require the additional expense of purchasing property and/or easements. NRP also provides a turnkey operation requiring no physical input from City staff. The NRP product is non hazardous, which provides an additional benefit over the ferrous chloride, which has a low pH and is considered a hazardous material.

Financial Considerations: Water Utility has been charged a monthly maintenance and materials fee equal to that previously paid for ferrous chloride used to treat this line ($8,875 per month). This cost is expected to decrease after the start up of the new plant because the amount of flow through this line will decrease by 3 million gallons per day. The fees associated with the use of the NRP product are directly proportional to the volume being treated. With the use of this product, Water Utility is also able to avoid the capital costs associated with the construction of the new feed site. This cost was estimated to be $400,000.

The funds for this service are budgeted as industrial chemicals in the sewage treatment operating budget. Adequate money has been budgeted to cover the costs of this application.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by providing reliable sewer service and ensuring that the City's effluent continues to meet quality standards.

Legal Considerations: The contract has been reviewed by Law and is approved as to legal form.

Recommendations/Actions: It is recommended that the City Council authorize the necessary signatures

to enter into a sole source contractual agreement with Natural Resource Protection (NRP) to provide odor control services for the major sanitary sewer interceptor that runs from 47th Street and Meridian to Plant No. 2.

Attachments: Contract.

CONTRACT
for
Wastewater Products for Odor Control
Blanket Purchase Order Number – BP030046

THIS CONTRACT entered into this 25h day of May, 2010, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"**, and **NRP GROUP, INC.** (Performance Vendor Code Number 800379-002), 9131 E. 37th Street North, Wichita, KS 67226-2010, Telephone Number (316) 303-0505 hereinafter called **"VENDOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited services for Wastewater Products for Odor Control for the Wichita Water Utilities Department, Sewage Treatment Division; and

WHEREAS, VENDOR has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY.**

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its proposal for services for Wastewater Products for Odor Control, for the Southwest Interceptor, of the Wichita Water Utilities Department, Sewage Treatment Division, which is incorporated herein by this reference the same as if it were fully set forth. The proposal submitted by the **VENDOR** for Wastewater Products for Odor Control shall be considered a part of this contract and is incorporated by reference herein.

2. **Compensation. CITY** agrees to pay to **VENDOR** the following **unit price** for **Wastewater Products for Odor Control** per **VENDOR'S** proposal to the Wichita Water Utilities Department, Sewage Treatment Division as shown below as compensation and as approved by the City Council on May 25, 2010.

DESCRIPTION	PRICE
Wastewater Product for Odor Control at each location for Application of Reduction of H2S 4.5 million gallons per day Product Number: NRP10-1000	$8,775.00 per month

3. **Term.** The term of this contract shall be from **May 25, 2010 through April 30, 2011,** with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR.**

5. **Indemnification and Insurance.**

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONTRACTOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	$100,000 each accident

6. Independent Contractor. The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

7. Compliance with Laws. VENDOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

8. No Assignment. The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned,delegated, sublet or transferred without the specific written consent of the **CITY**.

9. Non-Discrimination. VENDOR shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

10. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

11. No Arbitration. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

12. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

13. Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized

by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

Janis Edwards
Deputy City Clerk

CITY OF WICHITA, KANSAS

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

NRP GROUP, INC.

Signature

RON THOMAS
Print Name

SECRETARY
Title (President or Corporate Officer)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, Contractor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, Contractor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council

SUBJECT: Microsoft Enterprise Licensing Revisions

INITIATED BY: IT/IS

AGENDA: Consent

Recommendation: Approve the contract consolidation and renewal with additions.

Background: The IT Department maintains several annual contracts with Microsoft Corporation (Microsoft) for software maintenance. It has an opportunity to consolidate licensing contracts in order to take advantage of price breaks on additional product licensing.

Analysis: The City's enterprise agreements with Microsoft provide volume discounts on software licensing for all Microsoft product in the City's inventory. In order to keep pace with technology and take advantage of continued productivity benefits, the IT Department has consolidated two enterprise contracts to gain additional volume discounts and add additional product.

The revised contract adds the following enterprise wide licensing for the City.

- Virtual Desktop Licensing and Maintenance
- APP-V /MS Application Virtualization
- Asset Inventory Services
- Diagnostic and Recovery Toolset
- System Center Desktop Error Monitoring
- Advanced Group Policy Management
- MED-V /MS Enterprise Desktop Virtualization

Financial Consideration: The three year contract splits the total cost of $1,165,299 over three years. There is budgeted funding from the IT operating fund for the total cost of the contract. The contract also includes additions which are expended over three years; $5,103.20 in year one, $61,790 in year two, and $61,790 in year three, for a total additional cost of $128,683.20.

Goal Impact: The project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increased Productivity.

Legal Consideration: The contract has been approved as to form by the Law department.

Recommendations/Actions: Approve the contract consolidation and additions.

Attachments:

- City of Wichita-SHI Electronic Document Submission Authorization (3)
- City of Wichita-Program Sign Form Gov(US)SLG(ENG)(Oct2009)(CR)
- City of Wichita-Ent amendment 3 Jun10
- City of Wichita-EA Universal Update Statement(WW)(ENG)(Mar2010)(CR)
- City of Wichita-EA and EAS 2008 Media Election Form(NA)(ENG)(Oct2008)(CR)
- City of Wichita-EA 2009 Ent Gov(US)SLG(ENG)(Oct2009)(CR)
- City of Wichita-EA termination 3 Jun10
- City of Wichita Platform Core 2010 Revision 5-24-10
- City of Wichita Enterprise Enrollment

Electronic Document Submission Authorization

By signing below, you agree that the accompanying contract documentation is authorized to be submitted to Microsoft Licensing, G.P. via electronic means.

Additionally, you acknowledge and consent that:

- The electronically submitted version of the contract document(s) is a legally binding arrangement, and that no other copies of the agreement will be processed.
- Upon execution by Microsoft, the contract documentation will be returned to you with an original Microsoft signature on your non-original signature document.

Customer Name City of Wichita
Customer Representative Signature
Customer Printed Name and Title
Date

Microsoft | Volume Licensing

Enterprise Signature Form

State and Local

Master Agreement number or Enrollment number*	01E60106

SGN-	000-nancycal-S0921

Microsoft to complete if applicable

***Note**: Enter the applicable active numbers associated with the below documents. Microsoft requires the associated active number be indicated here, or listed below as new.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Document Number or Code
Enterprise Enrollment	X20-00096
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
Media Election Form	N/A
Amendment	6B4 (new)
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents,, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity * City of Wichita	**Microsoft Licensing, GP**
Signature * _____	**Signature**
Printed Name *	
Printed Title *	**Printed Name**
Signature Date *	**Printed Title**
	Signature Date (date Microsoft Affiliate countersigns)
Tax ID	**Effective Date** (may be different than Microsoft's signature date)

** indicates required field*

Optional 2nd Customer signature or Outsourcer Signature *(if applicable)*

Customer	Outsourcer
Name of Entity *	**Name of Entity ***
Signature * _____	**Signature *** _____
Printed Name *	**Printed Name ***
Printed Title *	**Printed Title ***
Signature Date *	**Signature Date ***

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Prepared By:	Name of Preparer
	Email of Preparer

Microsoft | Volume Licensing

Microsoft Enterprise Enrollment

Amendment

Enrollment number *Microsoft to complete*		Amendment ID	CTX-	000-nancycal-S0921
				ID Number *Microsoft to complete*

This amendment is entered into between the Customer and Microsoft Affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Enrollment identified above ("the Enrollment"). The following terms and conditions amend the terms and conditions of the Enrollment identified above, but only with respect to the Customer identified below and only for purposes of this Enrollment.

1. The effective date of this Enrollment shall be July 1, 2010.

2. Section 4, **Enterprise Product Orders,** is hereby deleted in its entirety and replaced with the following.

   The license reference prices for the enterprise products covered by your initial order are set forth below. We will invoice your reseller in unequal payments. All subsequent true-ups are billed in full.

Product Description	Part Number (SKU)	ERP Year 1	ERP Years 2 - 3	Quantity
Office Professional Plus All Lng SA MVL Platform	269-12442	82.65	104.40	2,051
WinPro ALNG UpgrdSAPk MVL Pltfrm wMDOP	FQC-03030	55.92	58.86	2,051
CoreCAL ALNG SA MVL Pltfrm DvcCAL	W06-01069	33.53	35.29	2,051

Note that the above prices are provided for reference only. Your actual price and payment terms will be determined by separate agreement between you and your reseller.

3. Section 5 **Credited Purchases**, is hereby added to the enrollment.

   The parties acknowledge that the reference prices above for the Enterprise Products takes into account purchases of License and Software Assurance which you made under your Enterprise Enrollments (8957189 and 4423954) the "Credited Purchases"). Because the reference prices herein for Enterprise Products take such Credited Purchases into account, you agree that (i) no further refund or credit shall be due pursuant to such Credited Purchases, and (ii) you will not transfer such Upgrade Advantage, Software Assurance or the original licenses to which it applies to any third party.

4. Section 6, **Additional Product Orders**, is hereby added to the enrollment.

   The license reference prices for the additional products covered by your initial order are set forth below. We will invoice your reseller in unequal payments. All subsequent new Additional Product and true-ups are billed in full.

Product Description	Part Number (SKU)	ERP Year 1	ERP Years 2 - 3	Quantity
Exchange Svr Ent All Languages SA MVL	395-02504	755.06	794.80	3
Office SharePoint Server All Lng SA MVL	H04-00268	918.00	966.57	1
SQL CAL All Languages SA MVL User CAL	359-00961	30.48	32.08	69
SQL CAL All Languages SA MVL Device CAL	359-00792	30.48	32.08	39
SQL Svr Enterprise Edtn All Lng SA MVL 1 Processor License	810-03307	5,125.57	5,395.34	2
SQL Svr Standard Edtn All Lng SA MVL 1 Processor License	228-03148	1,336.70	1,407.05	19
SQL Svr Standard Edtn All Lng SA MVL	228-04433	167.20	175.99	14
Sys Ctr Config Mgr Svr All Lng SA MVL	J3A-00162	107.91	113.59	1
VSProwMSDN ALNG SA MVL	77D-00111	348.38	366.71	9
VSUltwMSDN ALNG SA MVL	9JD-00053	1,904.34	2,004.57	4
WinRmtDsktpSrvcsCAL ALNG SA MVL DvcCAL	6VC-01253	15.80	16.63	449
WinRmtDsktpSrvcsCAL ALNG SA MVL UsrCAL	6VC-01254	15.80	16.63	5
Windows Svr Datacntr All Lng SA MVL 1 Proc	P71-00886	448.24	471.84	14
Windows Svr Ent All Lng SA MVL	P72-00188	439.38	462.51	2
Windows Svr Std All Lng SA MVL	P73-00226	135.19	142.31	8

Note that the above prices are provided for reference only. Your actual price and payment terms will be determined by separate agreement between you and your reseller.

5. Section 7 **Credited Purchases**, is hereby added to the enrollment.

   The parties acknowledge that the reference prices above for the Additional Products takes into account purchases of License and Software Assurance which you made under your Select Enrollment (7733273) the “Credited Purchases”). Because the reference prices herein for Additional Products take such Credited Purchases into account, you agree that (i) no further refund or credit shall be due pursuant to such Credited Purchases, and (ii) you will not transfer such Upgrade Advantage, Software Assurance or the original licenses to which it applies to any third party.

Except for changes made by this amendment, all terms of this Enrollment remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment.

Customer	***Contracting Microsoft Affiliate***
Name of Entity *	**Microsoft Licensing, GP**
Signature *	Signature
Printed Name *	Printed Name
Printed Title *	Printed Title
Signature Date *	Signature Date (date Microsoft affiliate countersigns)
** indicates required field*	Effective Date (may be different than our signature date)

Please sign this amendment and send to Customer's Reseller or Software Advisor. Customer's Reseller or Software Advisor must submit to the following address. When the amendment is fully signed, Customer will receive a confirming copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada USA 89511-1137

Prepared By: Nancy Zafir, Licensing Specialist

Microsoft | Volume Licensing

Enterprise Update Statement

Complete within 15 days following each anniversary of entity's enrollment effective date as described in the Microsoft Enterprise Agreement. Submit this form to entity's Software Advisor or Reseller who will remit to Microsoft.

For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Integrator, Institution, or other party entering into a volume licensing program agreement.

Enterprise agreement number 01E60106

Enrollment number 8957189

Company name City of Wichita

In accordance with the terms of entity's Enterprise Agreement, this Enterprise Enrollment Update Statement must be submitted within 60 days prior to or 15 days after the enrollment anniversary (including the 3rd year anniversary before any renewal). Entity must submit a statement when there has been no change in the number of qualifying desktops, qualifying users (if selecting user based licenses), and copies of additional products during the previous year.

If any of the above increase, entity must submit a true up order to its Reseller/Software Advisor accordingly.

☒ In checking this box, entity confirms that there has been no increase in the number of qualifying desktops, qualifying users, and copies of additional products under this Enrollment. Entity understands that it is the responsibility of the entity to ensure that all licenses installed are used according to the Enterprise Agreement.

Select applicable year for this Update statement. Please select only one box.

☐ Year 1

☐ Year 2

☒ Year 3

Customer
Name of Entity * City of Wichita
Signature *
Printed Name *
Printed Title *
Signature Date *

*** indicates required fields**

Microsoft | Volume Licensing

Enterprise and Enterprise Subscription

Media Election Form

Entity name* City of Wichita (must be same as Enrollment primary contact)

For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Integrator, Institution, or other party entering into a volume licensing program agreement.

This form identifies entity's software comprehensive and subscription kit preferences. All software for this program is available for download at https://licensing.microsoft.com under fulfillment guide. Entity may choose to receive physical media delivery in addition to this download facility, if required. Terms used but not defined in this form have the meanings given to them in entity's Enrollment.

The comprehensive kit delivery address information identifies the delivery location. A comprehensive kit is not shipped to renewing entities. Microsoft reserves the right to discontinue media shipments or charge for them in the future.

All CD/DVD-ROM subscriptions and licenses that Microsoft provides (if any) under this enrollment are delivered on a DDU (INCOTERMS 2000) port of entry in entity country basis. Entity is solely responsible for compliance with all associated costs and procedures, including customs and import requirements, and for paying all customs duties, import value added taxes, and other governmental fees and taxes, applicable to the importation of all such CD/DVD-ROM subscriptions and licenses and all accompanying documentation into entity's country, as well as any and all loading, downloading, transportation and mobilization costs. Microsoft may, at its sole discretion, act in entity's name and behalf, in any given shipment, to carry out and bear the costs related to the customs formalities. In any event, after any such CD/DVD-ROM subscriptions and licenses reach the port of entry in entity's country, (1) Microsoft has completed its delivery obligations with respect to such merchandise, and (2) all risk of delay, loss, apprehension or seizure of or damage to the CD/DVD–ROM subscriptions and licenses, including the carrier medium and related documentation, will be transferred from Microsoft to entity.

The charges for Licenses and any purchase of media may be subject to sales taxes based upon where delivery occurs. If entity is exempt from sales taxes in the delivery location, please provide the applicable sales tax exemption documentation with entity's Enrollment.

MEDIA DELIVERY ADDRESS

☐ ***Same as notices contact in the Enrollment***

Name of entity* City of Wichita
Contact name: First* **Last***
Contact email address (required for online access)*
Street address (no PO boxes accepted)*
City* , **State / Province*** **Postal code***
County **Country***
Phone* **Fax**
In City Limits ☐ **Estimated Tax Rate**

If entity chooses below to receive media in addition to the software download option available at https://licensing.microsoft.com, entity's selected media preference will be noted in Microsoft's systems so entity may automatically receive that media preference. Please note that DVD kits will include DVDs if available. If media is not available on DVDs, then CDs will be provided. Likewise, CD kits will include CDs if available; if CDs are not available, DVDs will be included.

What is entity's media preference? DVD

Does entity request a comprehensive kit? (This option does not apply to renewing entities) **No**

Does entity request subscription updates? Yes

Media election form (continued)

For each language and group entity chooses to receive, mark the corresponding box with an X	
Language	Enterprise Kit
English	☒
English/Multi-Language	☐
Arabic	☐
Brazilian Portuguese	☐
Bulgarian	☐
Chinese Simplified	☐
Chinese Traditional	☐
Chinese Traditional Hong Kong/Pan-Chinese	☐
Croatian	☐
Czech	☐
Danish	☐
Dutch	☐
Estonian	☐
Finnish	☐
French	☐
German	☐
Greek	☐
Hebrew	☐
Hungarian	☐
Indic	☐
Italian	☐
Japanese	☐
Korean	☐
Latvian	☐
Lithuanian	☐
Norwegian	☐
Polish	☐
Portuguese	☐
Romanian	☐
Russian	☐
Serbian Latin	☐
Slovak	☐
Slovenian	☐
Spanish	☐
Swedish	☐
Thai	☐
Turkish	☐
Ukrainian	☐
	= Not Available

Microsoft | Volume Licensing

Enterprise Enrollment State and Local

Enterprise Enrollment number *(Microsoft to complete)*		Proposal ID	
Previous Enrollment number *(Reseller to complete)*	8957189	Earliest expiring previous Enrollment end date [1]	06/30/10

[1] If consolidating from multiple previous Enrollments with Software Assurance, complete the multiple previous Enrollment form and attach it to this Enrollment. Enterprise Products can only be renewed from a Qualifying Enrollment. Additional Products can be renewed from any previous Enrollment with Software Assurance.

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as of the effective date identified in the signature form. Customer represents and warrants that it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified above.

This Enrollment consists of (1) this document, (2) the terms of the Enterprise Agreement identified on the signature form, and (3) any supplemental contact information form or multiple previous enrollment form that may be required. If Customer's Enterprise Agreement is a version 6.4 or earlier, the Desktop Terms and Conditions are incorporated by reference.

All terms used but not defined are located at http://microsoft.com/licensing/contracts. In the event of any conflict the terms of this agreement control.

Effective date. If Customer is renewing Software Assurance from one or more previous Qualifying Enrollments, then the effective date will be the day after the first Enrollment expires. Otherwise the effective date will be the date this Enrollment is accepted by Microsoft.

If renewing Software Assurance, the Reseller will need to insert the previous Enrollment number and end date in the respective boxes above.

Term. This Enrollment will expire 36 full calendar months from the effective date. It could be terminated earlier or renewed as provided in the Microsoft Enterprise Agreement. Microsoft will advise Customer of the renewal options before it expires.

Product order. The Reseller will provide Customer with Customer's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Customer and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

Qualifying systems Licenses. All desktop operating system Licenses provided under this program are upgrade Licenses. *No full operating system Licenses are available under this program.* If Customer selects the Desktop Platform or the Windows Desktop Operating System Upgrade & Software Assurance, all Qualified Desktops on which the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at http://microsoft.com/licensing/contracts. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some subsequent true-ups and system refreshes during the term of this Enrollment.

For example, Windows XP Home Edition or successor Products are not qualifying operating systems.

1. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Customer consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at http://licensing.microsoft.com.

a. Primary contact information: The Customer of this Enrollment must identify an individual from inside its organization to serve as the primary contact. This contact is the default administrator for this Enrollment and receives all notices unless Microsoft is provided written notice of a change. The administrator may appoint other administrators and grant others access to online information.

Name of entity (must be legal entity name)* City of Wichita
Contact name* First **Last**
Contact email address*
Street address*
City* **State *** **Postal code***
Country*
Phone* **Fax**
Tax ID (if applicable)

b. Notices and online administrator: This individual receives online administrator permissions and thus may grant online access to others. This contact also receives all notices.

☐ *Same as primary contact*
Name of entity (must be legal entity name)*
Contact name* First **Last**
Contact email address*
Street address*
City* **State *** **Postal code***
Country*
Phone* **Fax**
☐ This contact is a third party (not the Customer). Warning: This contact receives personally identifiable information of the Customer.

c. Language preference: Select the language for notices. English

d. Microsoft account manager: Provide the Microsoft account manager contact for this Customer.

Microsoft account manager name:
Microsoft account manager email address:

e. If Customer requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact remains the default.

- Additional notices contact
- Software Assurance manager
- Subscription manager
- Online Services manager
- Customer Support Manager (CSM) contact

f. Is a purchase under this Enrollment being financed through MS Financing? ☐ Yes, ☒ No.

g. Reseller information
Reseller company name* SHI International Corp
Street address (PO boxes will not be accepted)* 33 Knightsbridge Road
City* Piscataway **State *** NJ **Postal code*** 08854
Country* USA
Contact name *
Phone* 888-764-8888
Fax
Contact email address* msteam@shi.com

The undersigned confirms that the information is correct.

Name of Reseller* SHI International Corp **Signature***_____ **Printed name*** **Printed title*** Licensing Specialist **Date***

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with one another, Customer must choose a replacement. If Customer intends to change the Reseller, it must notify Microsoft and the former Reseller, in writing on a form provided at least 90 days prior to the date on which the change is to take effect. The change will take effect 90 days from the date of Customer's signature.

2. Defining your Enterprise.

Use this section to identify which Affiliates are included in the Enterprise. Customer's Enterprise must consist of entire government agencies, departments or legal jurisdictions, not partial government agencies, departments, or legal jurisdictions. (Check only one box in this section.)

☒ Only you (and no other affiliates) will be participating

☐ Customer and all Affiliates are included (*excluding* new Affiliates with which you consolidate in the future)

☐ The following Affiliates are excluded

3. Establishing Customer price level.

The price level indicated in this section will be the price level for the initial Enrollment term for all Enterprise Products ordered and for any Additional Products in the same pool(s). The price level for any other Additional Products will be level "D".

Qualified Desktops: Customer represents that the total number of Qualified Desktops in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 desktops).	**2051**

Qualified Users: Customer represents that the total number of Qualified Users in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 users).	

Number of desktops/ users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which Customer orders an Enterprise Product):	Qualified Desktop	Qualified User
	D	**D**

Price level (for pools in which Customer does not order an Enterprise Product):	**Price level "D"**

4. Enterprise Product orders.

Customer must select a desktop platform or any individual Enterprise Product before it can order Additional Products. The CAL selection must be the same across the Enterprise. The components of the current versions of any Enterprise Product are identified in the Product List.

Enterprise Product Selection

Please choose the Enrolled Affiliate's desktop option (Select 1):

☐ **Enterprise Desktop with MDOP** ☐ **Enterprise Desktop**

☐ **Professional Desktop with MDOP** ☐ **Professional Desktop**

☐ **Custom Desktop or Individual Enterprise Product Component(s):**

Select at least 1 component. (For full platform, Windows Desktop, Office, and Client Access License components must all be selected.)

☒ **Windows Desktop** (Includes Windows Desktop Operating System Upgrade and VECD)**:** Windows Desktop with MDOP
☒ **Office:** Office Professional Plus
☒ **Client Access License:** Core CAL

For any Client Access Licenses, please indicate whether licensing by Desktop or User: Desktop

Other Enterprise Products (optional):

☐ **Add VECD for Software Assurance as an Enterprise Product** (must have selected option with "Windows Desktop OS Upgrade")

Unless stated/indicated otherwise, Microsoft will invoice Customer's Reseller in 3 equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and thereafter on the anniversary of the Enrollment. All subsequent new Additional Products and true-ups are billed in full.

Microsoft | Volume Licensing

Microsoft Enterprise Enrollment

Amendment

Enrollment number *Microsoft to complete*	4423954	Amendment ID	CTX-	KS-002-lroxberg-23
				ID Number *Microsoft to complete*

This amendment is entered into between the Customer and Microsoft Affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Enrollment identified above ("the Enrollment"). The following terms and conditions amend the terms and conditions of the Enrollment identified above, but only with respect to the Customer identified below and only for purposes of this Enrollment.

1. The effective date of this amendment is June 30, 2010.

2. The enrollment is hereby amended by adding the following provision:

   Termination of Enterprise Enrollment: Enterprise Enrollment No. 4423954 between you and us (the "terminated enrollment") shall be deemed terminated effective June 30, 2010, upon full execution and delivery of this amendment and the new Microsoft Enterprise Enrollment being signed in connection with the new City of Wichita Enrollment (the "new enrollment"). Within 45 days of the effective date of the new enrollment, all copies of products installed under the terminated enrollment must be removed from the devices on which they were installed, except for those copies included under the new enrollment.

Except for changes made by this amendment, all terms of this Enrollment remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment.

Customer	***Contracting Microsoft Affiliate***
Name of Entity * City of Wichita	**Microsoft Licensing, GP**
Signature *	Signature
Printed Name *	Printed Name
Printed Title *	Printed Title
Signature Date *	Signature Date (date Microsoft affiliate countersigns)
** indicates required field*	Effective Date (may be different than our signature date)

Please sign this amendment and send to Customer's Reseller or Software Advisor. Customer's Reseller or Software Advisor must submit to the following address. When the amendment is fully signed, Customer will receive a confirming copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada USA 89511-1137

Prepared By: Linda Roxberg, LE

Microsoft | Volume Licensing

Enterprise Enrollment (Indirect)
Amendment ID 6B4

000-nancycal-S0921

This Enterprise Enrollment Amendment ("Amendment") is entered into between the entities as of the effective date identified in the signature form and amends the enrollment identified above ("Enrollment"). This Amendment provides use rights for Exchange Online for SA SharePoint Online for SA subscriptions, as specified below. The reference prices are shown. Enrolled Affiliate's actual prices for this order will be between Enrolled Affiliate and Enrolled Affiliate's Reseller.
The terms and conditions in this Amendment supersede any conflicting terms and conditions in the Enterprise agreement.

Product Description	Part Number (SKU)	Quantity	Monthly Net Price	Usage Country	Extended Net Price
ExchgOnlnStd ShrdSvr SubsVL MVL	TRA-00046	**2,051**	**0**	**United States**	**0**
SharePointOnlnStd ShrdSvr SubsVL	TVA-00019	**2,051**	**0**	**United States**	**0**
<Choose one>	<Choose one>		**0**		**0**
<Choose one>	<Choose one>		**0**		**0**
<Choose one>	<Choose one>		**0**		**0**
<Choose one>	<Choose one>		**0**		**0**

Usage Start Date for the above subscriptions will be the Enrollment Effective Date.

This Amendment is valid until expiration of the initial term, or the earlier termination, of the Enrollment. No extension of this Amendment is provided without Microsoft's prior written approval.

Submission of this Amendment by Enrolled Affiliate's Distributor/Reseller constitutes Enrolled Affiliate's placement of the above order.

Distributor/Reseller acknowledgement:

Name of Distributor/Reseller
Printed Name
Printed Title
Date
Purchase Order Number

Distributor/Reseller Signature

This Amendment must be attached to a signature form to be valid.

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
MAY 2010

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Automatic Teller Machines	5/7/2011	Intrust Bank NA	Airport	5/8/07 - 5/7/2010	2 - 1 year options
Bricks	5/31/2011	Lusco Brick & Stone Co.	Public Works & Wichita Water Utilities	6/1/2009 - 5/31/2010	1 - 1 year option
Janitorial Services for Bus Shelters	5/31/2011	AAA Commercial Janitorial	Transit	6/16/2009 - 5/31/2010	1 - 1 year option
Joint & Crack Sealant	5/31/2011	Paving Maintenance Supply Inc.	Public Works	6/2/2009 - 5/31/2010	1 - 1 year option
Microtox Reagent	5/31/2011	Strategics Diagnostics, Inc.	Wichita Water Utilities	6/1/2006 - 5/31/2007	Annual Basis
Paint, White and Yellow Pavement Marking	5/31/2010	Ennis Paint, Inc.	Public Works	6/1/2009 - 5/31/2010	2 - 1 year options
Scrap Metal	5/31/2010	Wichita Iron & Metal, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Tires - Passenger, Pursuit, Light Truck, Medium Truck, Grader and Fire Apparatus Heavy Truck/Groups 1,2,3,4,5 & 7	5/31/2010	Wiechman-Bush Tires, Inc.	Various	6/2/2009 - 5/31/2010	2 - 1 year options
Tires - Passenger, Pursuit, Light Truck, Medium Truck, Grader and Fire Apparatus Heavy Truck/Group - Group 6	5/31/2010	Kansasland Tire	Various	6/2/2009 - 5/31/2010	2 - 1 year options
Traffic Signs	5/31/2010	Vulcan Signs	Public Works	6/1/2009 - 5/31/2010	2 - 1 year options
Ultraviolet Light Replacement Bulbs and Parts for Sewage Treatment Plant 2 Disinfection System and Cowskin Creek Water Quality Reclamation Facility	5/31/2011	Ray Lindsey Company	Wichita Water Utilities	6/2/2009 - 5/31/2010	1 - 1 year option
Uniforms - Utility for Police & Airport	5/31/2011	Industrial Uniform Company, LLC	Police & Airport	6/1/2009 - 5/31/2010	1 - 1 year option

PROFESSIONAL CONTRACTS UNDER $25,000
MAY 2010

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
Poe & Associates Inc.	PO030386	Engineering Consulting	14,750.00
Poe & Associates Inc.	PO030419	Engineering Consulting	12,000.00
Baughman Co.	PO030450	Engineering Consulting	10,800.00
Integrated Solutions Inc.	PO030459	Remediation Services, Environmental	8,780.00

ANNUAL MAINTENANCE CONTRACTS OVER $25,000
DIRECT PURCHASE ORDERS FOR MAY 2010

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
First Data Government Solutions	DP030538	Software Maintenance/Support	$45,394.00
Sen Inc.	DP030595	Software Maintenance/Support	$110,404.43
GBA Master Series Inc.	DP030620	Office Equipment, Filing Systems, Maint., etc.	33,615.00
MSN Communications	DP030641	Software Maintenance/Support	36,149.84
The Active Network	DP030642	Software Maintenance/Support	28,516.69
Cogsdale Holdings Ltd.	DP030656	Software Maintenance/Support	80,678.00

City of Wichita
City Council Meeting
June 15, 2010

TO: Mayor and City Council Members

SUBJECT: Nuisance Abatement Assessments (All Districts)

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendation: Approve the assessments and ordinances.

Background: The Office of Central Inspection supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinance allow the City to clean up private properties that are in violation of environmental standards after proper notification to the responsible party. A private contractor performs the work, and the Office of Central Inspection bills the cost to the property owner.

Analysis: State law and City ordinances allow placement of the lot cleanup and mowing costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and the Office of Central Inspection is requesting permission for the Department of Finance to process the necessary special assessments.

Financial Considerations: Nuisance abatement contractors are paid through budgeted appropriations from the City's General Fund. Owners of abated property are billed for the contractual costs of the abatement, plus an additional administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property. Nuisance abatements to be placed on special assessments are on the attached property list.

Goal Impact: Nuisance abatement activities support the goal of Core Area and Vibrant Neighborhoods by cleaning properties that are detrimental to Wichita neighborhoods.

Legal Considerations: These assessments are in accordance with Chapters 7.40.050 and 7.40.060 and 8.01.065 of the City Code. This agenda report has been reviewed and approved by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the proposed assessments and place the ordinances on first reading.

Attachments: Property List for Special Assessments

Weed Mowing	Address / Location	Amount	District No.
C-09853	244 S HYDRAULIC	$ 205.00	1
C-13128	2652 E GRAIL	$ 205.00	1
B-08890	1155 N CLEVELAND	$ 205.00	1
B-03444	1318 N INDIANA	$ 205.00	1
B-04902	809 S TOPEKA AVE	$ 205.00	1
C-22373	2634 S MASON	518.25	3
C-02729	1335 N POPLAR - V/L	616.45	1
C-26127-0001	2801 E SUNNYBROOK LN	709.20	3
B-15055	5418 S VICTORIA CT - V/L	510.70	3
B-09762	2420 S WASHINGTON	449.25	3
B-10740	1625 E JUMP	533.40	3
C-54688	15405 E CASTLE - V/L	1,038.65	2
B-12289	1638 E GEORGIA AVE	2,244.50	3
B-08413-000A	1832 S LULU	367.84	1
B-15052	5406 S VICTORIA CT - V/L	682.90	3
B-15053	5410 S VICTORIA CT - V/L	733.78	3
A-00032-00UP	3300 N ARKANSAS - V/L	1,910.60	6
C-21187	2237 N ESTELLE	428.80	1
~~C-00779-0001~~	~~2038 E 9TH ST N~~ please remove from Agenda date 6/15/2010	~~$641.00~~	~~1~~
C-55068	6955 S RUTAN	$754.30	3
A-02001	219 W 14TH ST N	120.24	6
B-02927	515 N MATHEWSON AVE	120.24	1
B-02922	514 N CLEVELAND AVE	120.24	1
C-01113	1617 N ASH	120.24	1
C-03307	1611 N HILLSIDE ST	120.24	1
C-01090	1618 N PIATT ST	120.24	1
C-30194	1340 S TERRACE DR - V/L	120.24	3
B-13740	V/L 3 N OF 46TH ST S & EMPORIA CIR	$178.00	3
B-13739	V/L 4 N OF 46TH ST S & EMPORIA CIR	$178.00	3
D-45917	V/L WITH POND	$178.00	5
D-17832	V/L 1 WEST OF 3527 S ST CLAIR	$123.00	4
C-02937	1307 N ERIE ST	$123.00	1
C-03200-0001	1712 N VOLUTSIA AVE	$123.00	1
D-29355	V/L SOUTH OF 3500 S MERIDIAN	$178.00	4
D-17831	V/L 2 WEST OF 3533 S ST CLAIR	$123.00	4
C-03441	1504 N ERIE	$123.00	1
C-01172-0001	1531 N MADISON AVE	$123.00	1
~~C-01170~~	~~1551 N MADISON AVE~~ - please remove from Agenda date 6/15/2010	~~$123.00~~	~~1~~
C-01112	2031 E 16TH ST N - V/L	$123.00	1
C-01142	1534 N ASH	$61.50	1

239062 **6 Affidavits**
S-80335

Published in The Wichita Eagle on **June 25, 2010**

ORDINANCE NO. 48-756

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE COST OF ABATING CERTAIN PUBLIC HEALTH NUISANCES (**LOT CLEAN UP**) UNDER THE PROVISION OF SECTION 7.40.050 OF THE CODE OF THE CITY OF WICHITA, KANSAS. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite each of the following lots, pieces and parcels of land or ground, herein specified, be and the same is hereby levied to pay the cost of abating certain public nuisances under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas, which public health nuisances are determined to have existed upon the following described property:

LEGAL OF PARCEL IN BENEFIT DISTRICT	ASSESSMENT
VAC LOTS 20 TO 24 INC & 1/2 VAC ST ADJ GIBBONS GARDENS BEING BEG 525 FT S & 30 FT E NW COR SE 1/4 S 150 FT E 260 FT M-L N 150 FT W TO BEG SE 1/4 SEC 32-26-1E	1,910.60
LOTS 28-30-32 CHERRY NOW INDIANA AVE. BURLEIGH'S 3RD. ADD.	205.00
BEG 40 FT N OF SE COR SCHOOL RES N 59 FT W 140 FT S 59 FT E TO BEG BLOCK 2 ORME & PHILLIPS ADD.	205.00
N 18 1/2 FT LOT 68-ALL LOTS 70-72 LULU AVE. STRONG'S ADD.	367.84
BEG 30 FT W & 72 FT S NE COR SW 1/4 NE 1/4 W 132 1/2 FT S 37 1/2 FT E 132 1/2 FT N 37 1/2 FT TO BEG SEC 16-27-1E	205.00
LOTS 16-18 WASHINGTON AVE.	449.25

WABASH AVE. SUB.	
LOT 5 BLOCK 14 SCHRADER BROS. 3RD. ADD.	533.40
LOT 24 BLOCK 1 LOUIS 4TH. ADD.	2,244.50
~~LOTS 3-4-5 MC INTYRE & STEELE'S SUB.~~	~~641.00~~
please remove from Agenda date 6/15/2010	
LOTS 15-17-19 MONA NOW POPLAR ST FAIRMOUNT PARK ADD.	616.45
LOT 8 & S 34 FT LOT 9 EXC E 10 FT FOR ALLEY BLOCK 4 MC KNIGHT PLACE ADD.	205.00
LOT 19 BLOCK 17 SCHWEITER'S 9TH. ADD.	205.00
LOT 6 BLOCK AA AUDREY MATLOCK HEIGHTS 1ST. ADD.	428.80
LOT 9 BLOCK 4 CLASSEN PARKED ADD.	518.25
LOT 13 EXC E 4 FT & EXC W 76 FT DUNHAM'S 2ND. ADD.	709.20
LOT 9 BLOCK 3 TIMBER LAKES ESTATES 3RD. ADD.	1,038.65

LOT 3 BLOCK 1 SOUTHRIVER ADD.	754.30
LOT 21 BLOCK C RIVENDALE ADD.	682.90
LOT 22 BLOCK C RIVENDALE ADD.	733.78
LOT 24 BLOCK C RIVENDALE ADD.	510.70

SECTION 2. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **22th day of June, 2010**.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

239054 **6 Affidavits**
S-80225

_____ Published in The Wichita Eagle on **June 25, 2010**

ORDINANCE NO. 48-755

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE COST OF **CUTTING WEEDS** IN THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sums set opposite the following lots, tracts, pieces and parcels of land or ground, herein specified, be and the same are hereby levied to pay the cost of cutting weeds in the City of Wichita, Kansas in the year 2010:

LEGAL OF PARCEL IN BENEFIT DISTRICT	ASSESSMENT
W 79 FT LOT 26 FAIRVIEW AVE. SHERWOODS ADD.	120.24
LOTS 28-29 SHIRK'S ADD.	120.24
LOTS 38-39 SHIRK'S ADD.	120.24
LOT 11 BLOCK 1 SOUTH BROADWAY INDUSTRIAL PARK ADD.	178.00
LOT 12 BLOCK 1 SOUTH BROADWAY INDUSTRIAL PARK ADD.	178.00
LOTS 78-80 PIATT AVE. LOGAN ADD.	120.24
LOT 51 EXC W 3 FT FOR ROW & LOT 53 EXC W 5 FT FOR ROW	123.00

ASH ST LOGAN ADD	
LOTS 77-79 ASH ST. LOGAN ADD.	120.24
LOTS 112-114 STRONG NOW ASH ST. LOGAN ADD.	61.50
~~LOTS 95-97 & N 15 FT LOT 99 CAMPBELL NOW MADISON AVE. LOGAN ADD.~~	~~123.00~~
please remove from Agenda date 6/15/2010	
LOTS 115-117 MADISON AVE. LOGAN ADD.	123.00
LOTS 41-43 MT VERNON NOW ERIE FAIRMOUNT PARK ADD.	123.00
LOTS 58-60 ACADEMY NOW VOLUTSIA AVE WOODRIDGE PLACE ADD	123.00
LOTS 9-11 HILLSIDE AVE. WOODRIDGE PLACE ADD.	120.24
LOTS 50-52 MT. VERNON NOW ERIE AVE. GIRARD ADD.	123.00
LOT 17 EXC TH PT E LI 8.11 FT NW OF NE COR EXT S TO PT 45.4 FT NW OF SE COR BLOCK F HILLTOP MANOR SUB A REPLAT OF PT HILLTOP MANOR & HILLTOP MANOR 2ND	120.24
LOT 6 HATCHER-GOMEZ ADD.	123.00

LOT 7 HATCHER-GOMEZ ADD.	123.00
LOT 1 JOSEPH E. HALL ADD.	178.00
RESERVE A ARLINGTON PLACE 2ND. ADD.	178.00

SECTION 2. This ordinance shall take effect and be in force from and after its passage by the city council and publication once in the official City newspaper.

ADOPTED at Wichita, Kansas, this **22th** day of **June, 2010**.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form

Gary E. Rebenstorf, Director of Law

Second Reading Ordinances for June 15, 2010 (first read on June 8, 2010)

ZON2010-00001 – City zone change from LC Limited Commercial ("LC") to GC General Commercial ("GC"); generally located midway between the Riverside Drainage Canal and 47th Street South, on the west side of Broadway Avenue. **(District IV)**

ORDINANCE NO. 48-745

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.

ZON2010-00014-City zone change from B Multi-family Residential ("B") to LI Limited Industrial ("LI"); generally located west of North Santa Fe Street and 190 feet south of Eat 14th Street.

ORDINANCE NO. 48-746

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.

ORDINANCE NO. 48-750

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.

Ken Mar TIF Bonding Ordinance.

ORDINANCE NO. 48-751

An ordinance authorizing the issuance of General Obligation bonds to pay all or a portion of the cost of certain redevelopment expenses in connection with the Ken Mar Center Project and repealing portions of Ordinance No. 48-172.

False Alarm Ordinance Revisions.

ORDINANCE NO. 48-753

An ordinance amending sections 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.050, 3.40.060, 3.40.070, 3.40.090, 3.40.100 and 3.40.135, creating sections 3.40.038, 3.40.061, 3.40.063, 3.40.065, 3.40.115, 3.40.118 and 3.40.145 of the code of the City of Wichita, Kansas, pertaining to alarm systems, amending section 19.08.050 of the code of the city of Wichita, Kansas, pertaining to electricians' certificates, permits and licenses and repealing the originals of sections 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.050, 3.40.060, 3.40.070, 3.40.090, 3.40.100, 3.40.105, 3.40.135 and 19.08.050 of the code of the City of Wichita, Kansas.