

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 450

## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 14, 2007  
Tuesday, A.M.

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

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

Pastor Brent Warkentin, First Mennonite Brethren, gave the invocation.

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

The Minutes of the regular meeting of August 7, 2007, approved 7 to 0.

## CONSENT AGENDA

Motion--  
--carried

Brewer moved that Consent items 1-15f be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

## **BOARD OF BIDS**

### REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 13, 2007

Motion--  
--carried

Brewer moved to receive and file report; approve Contracts; and authorize necessary signatures. Motion carried 7 to 0.

Bids were opened August 10, 2007, pursuant to advertisements published on:

Lateral 523, Southwest Interceptor Sewer to serve Gray's 6th Addition (south of MacArthur, west of Hoover) (468-84360/744240/480928) Does not affect existing traffic. (District IV)

Dondlinger & Sons - \$26,850.00

2007 Park Lighting for Orchard Park, Park Villa at Riverside, & Linwood Park (472-84506/472-84507/472-84508/785095/785096/785108/397215) Does not affect existing traffic. (District I, VI)

Wichita Electric Company, Inc. - \$96,636.25

Zelta Drive from the north line of Kellogg Drive to the south line of Waterman (north of Kellogg, east of Greenwich) (472-84300/765972/490078) Traffic to be maintained during construction using flagpersons and barricades. (District II)

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 451

Kansas Paving Company - \$257,519.85

2007 Sanitary Sewer Rehabilitation, Phase D (various locations north of MacArthur, east of West Street) (468-84382/620484/667602) Traffic to be maintained during construction using flagpersons and barricades. (District I, II, IV)

Utility Maintenance Contractors - \$306,918.00

Water Distribution System to serve Blackstone Addition (north of 13th Street North, east of 151st Street West) (448-90185/735365/470038) Does not affect existing traffic. (District V)

WBW Contractors - \$60,513.60

Storm Water Drain #323 to serve Legacy 3rd Addition (north of 47th Street South, west of Meridian) (468-84330/751447/485338) Does not affect existing traffic. (District IV)

Pearson Excavating - \$205,385.67

Motion--

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

--carried

Motion carried 7 to 0.

WATER UTILITIES DEPARTMENT/PRODUCTION & PUMPING DIVISION: Liquid Ferric Sulfate

General chemical Performance Products, LL - \$48,750.00 (Total Net Bid)\*

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

PUBLIC WORKS DEPARTMENT/FLEET MAINTENANCE DIVISION & WATER UTILITIES DEPARTMENT: 25,500 GVWR Cab & Chassis & Install Tank

Kansas Truck Center North – \$ 66,489.00 (Group I Base Bid)

\$ 1,340.00 (Group 1 Option 1)

\$ 1,069.00 (Group 1 Option 2)

\$ 48.00 (Group 1 Option 3)

Roberts Truck Center - \$ 61,395.00 (Group 2 Base Bid)

\$ 1,340.00 (Group 2 Option 1)

\$ 821.00 (Group 2 Option 2)

\$ Included (Group 2 Option 3)

POLICE DEPARTMENT/TRAINING DIVISION: Boots and Shoes – Police

Deferred to August 20, 2007

Motion--

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

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 452

CMBS

## APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2007</u>	<u>(Consumption on Premises)</u>
James Smith	Farmers Market, Inc.	2901 North Broadway
Jack N. Reif	Target Corporation dba Target Store T-1944	10800 East 21 Street North
Jack N. Reif	Target Corporation dba Target Store T-1945	2727 Maize Road

Motion--  
--carried

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

PRELIM. ESTS.

## PRELIMINARY ESTIMATES:

- a. Water Main Replacement to serve Anderson First Addition (east of Meridian, north of Maple) (448-90211/636158/776551) Traffic to be maintained using flagpersons and barricades. (District IV) - \$1,555,600.00
- b. Wichita Transit Bus Passenger Bench and Shelter Installation, Phase II (north of 47th Street South, east of 135th Street West) (472-84485a/629550/629551/629568/616004/616005/617001) Traffic to be maintained using flagpersons and barricades. (District I,II,III,IV,V,VI) - \$325,000.00
- c. Storm Water Sewer #630 to serve EC & LR Coles Addition to Carey Park (north of 29th Street North, west of Arkansas) (468-84335/751446/485337) Traffic to be maintained using flagpersons and barricades. (District VI) - \$150,000.00
- d. Castle Rock/Rockhill, from the south line of 21st Street North to the west line of 143rd Street East; Castle Rock Court, serving Lots 26 through 29, Block 1, from the east line of Castle Rock to and including the cul-de-sac; Castle Rock Court, serving Lots 15 through 19, Block 5, from the east line of Castle Rock to and including the cul-de-sac; Rockhill Court, serving Lots 23 through 33, Block 5, from the north line of Rockhill to and including the cul-de-sac; Split Rail/Churchill Circle, serving Lots 1 through 16, Block 1 and Lots 1 through 6, Block 5, from the north line of Rockhill to and including the cul-de-sac; Split Rail Court, serving Lots 1 through 8, Block 1 from the east line of Split Rail to and including the cul-de-sac; Burning Tree/Burning Tree Court from the south line of Lot 61, Block 2 to the west line of Castle Rock; Sidewalk on one side of Castle Rock, Rockhill, Split Rail and Burning Tree to serve Krug South Addition (south of 21st Street North, west of 143rd Street East) (472-84521/766128/490146) Does not affect existing traffic. (District II) - \$1,090,740.00
- e. Lateral 15, Main 7 Northwest Interceptor Sewer to serve Wadley Ranch Addition in the City of Maize (south 37th Street North, west of Maize) (468-84332/744227/480915) Does not affect existing traffic. (District Maize) - \$29,000.00

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 453

- f. Mark Randal from the east line of Covington to the north line of Lot 27, Block 1; Cortina from the south line of Mark Randal to the east line of Lot 8, Block 2, including the cul-de-sac; Shefford from the east line of Lot 8, Block 2, to the north line of Lot 27, Block 1 to serve Fontana 3rd Addition (north of 29th Street North, east of 119th Street West) (472-84091/766131/490149) Does not affect existing traffic. (District V) - \$550,290.00
- g. Water Distribution System to serve Cheryl's Hollow 2nd Addition (north of 13th Street North, west of 135th Street West) (448-90290/735362/470035) Does not affect existing traffic. (District V) - \$101,000.00
- h. Water Distribution System to serve Willow Creek East Addition (south of Harry, east of Greenwich) (448-90282/735360/470033) Does not affect existing traffic. (District II) - \$91,000.00
- i. Jamesburg from the east line of the plat, west to the east line of Nickelton; Nickelton from the south line of Jamesburg, south to the north line of Ridgepoint; Ridgepoint from the east line of the plat, west to the west line of Nickelton; Nickelton Cir. (Lots 7 through 20, Block C) from the north line of Nickelton north to and including the cul-de-sac; Nickelton Ct. (Lots 1 through 6, Block C) from the east line of Nickelton Cir. east to and including the cul-de-sac; Nickelton Ct. (Lots 1 through 6, Block B) from the east line of Nickelton east to and including the cul-de-sac; Nickelton Ct. (Lots 7 through 12, Block B) from the east line of Nickelton, east to and including the cul-de-sac; Nickelton Cir.(Lots 1 through 20, Block A) from the south line of Ridgepoint, south to and including the cul-de-sac; Sidewalk on Jamesburg, Nickelton and Ridgepoint to serve Silverton Addition (north of 13th Street North, west of 135th Street West) (472- 84459/766152/490170) Does not affect existing traffic. (District V) - \$694,000.00
- j. Water Distribution System to serve Rainbow Lakes West Addition (south of Central, east of 119th Street West) (448-90195/735320/470991) Traffic to be maintained during construction using flagpersons & barricades. (District V) - \$91,500.00

Motion--carried

Brewer moved to receive and file.

## PETITION

### CONSTRUCT SANITARY SEWER AND WATER IMPROVEMENTS IN MAPLE SHADE ADDITION, EAST OF WEBB, NORTH OF PAWNEE. (DISTRICT II)

Agenda Item No. 4a.

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

The projects will provide sanitary sewer and water improvements within a new residential development located east of Webb, north of Pawnee.

The Petitions total \$110,000. The funding source is special assessments.

These projects address the Efficient Infrastructure goal by providing public improvements required for new development.

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

Motion--  
--carried

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

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 454

## RESOLUTION NO. 07-475

Resolution of Findings of Advisability and Resolution authorizing construction of Water Distribution System Number 448-90318, east of Webb, north of Pawnee, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

## RESOLUTION NO. 07-476

Resolution of Findings of Advisability and Resolution authorizing construction of Lateral 407, Four Mile creek Sewer, east of Webb, north of Pawnee, 468-84391, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

## PETITION

### **CONSTRUCT A SANITARY SEWER IN GRAY'S SIXTH ADDITION, SOUTH OF MACARTHUR, WEST OF HOOVER. (DISTRICT IV)**

Agenda Item No. 4b.

On June 5, 2007, the City Council approved a Petition to construct a Sanitary Sewer in Gray's 6th Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located south of MacArthur, west of Hoover.

The existing Petition totals \$37,486 with the total assessed to the improvement district. The new Petition totals \$42,286 with the total assessed to the improvement district.

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

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

Motion--  
--carried

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

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 455

## RESOLUTION NO. 07-477

Resolution of Findings of Advisability and Resolution authorizing construction of Lateral 523, Southwest Interceptor Sewer, south of MacArthur, west of Hoover, 468-84360, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

### DEEDS/ESMNTS

#### DEEDS AND EASEMENTS:

- a. Utility Easement dated February 16, 2007 from Cinema Associates, a Kansas General Partnership for a tract of land lying within a portion of the SE 1/4 of SEc. 21, Twp. 27-S, R-2-E of the 6th P.N., Sedgwick County, Kansas, No cost to City (D18208)
- b. Utility Easement dated May 31, 2007 from Triple J of Wichita, L.L.C. for a tract of land lying in Lot 3, Block 1, Cornejo East 2nd Addition, Wichita, Sedgwick County, Kansas, No Cost to City (D18209)
- c. Utility Easement dated May 24, 2007 from U-STor of Corpus Christi, L.L.C. for a tract of land lying in Lot 2, Block 1, Cornejo East 2nd Addition, Wichita, Sedgwick County, Kansas, No Cost to City (D18210)
- d. Utility Easement dated May 11, 2007 from Corral Group, LP for a tract of land lying in Lot 1, Block A and Reserve "A", Golden Corral Addition, Wichita, Sedgwick County, Kansas, No Cost to City (D18211)
- e. Utility Easement dated February 16, 2007 from Cinema Associates, a Kansas General Partnership for a tract of land lying within a portion of the SE 1/4 of SEc. 21, Twp. 27-S, R-2-E of the 6th P.N., Sedgwick County, Kansas, (OCA # 607861) No cost to City
- f. Utility Easement dated May 31, 2007 from Triple J of Wichita, L.L.C. for a tract of land lying in Lot 3, Block 1, Cornejo East 2nd Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- g. Utility Easement dated May 24, 2007 from U-STor of Corpus Christi, L.L.C. for a tract of land lying in Lot 2, Block 1, Cornejo East 2nd Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- h. Utility Easement dated May 11, 2007 from Corral Group, LP for a tract of land lying in Lot 1, Block A and Reserve "A", Golden Corral Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City

Motion--carried

Brewer moved that the documents be accepted. Motion carried 7 to 0.

### BOARDS/COMMISS.

#### MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Wichita Airport Advisory Board July 9, 2007  
Board of Code Standards and Appeals, July 9, 2007  
Design Council, July 11, 2007

Motion--carried

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

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 456

**STREET CLOSURE**     **2007-WICHITA KOMEN RACE FOR THE CURE, SEPTEMBER 29, 2007, 7:00 A.M.-11:00 A.M. (DISTRICT II)**

Agenda Item No. 7a.

In accordance with the Community Events Procedure, Wichita Medical Research Offices is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

2007 – Wichita Komen Race for the Cure, September 29, 2007 7:00 am – 11:00 am  
Douglas Avenue, Rock Road to Whittier Street not including the intersection of Douglas Avenue and Rock Road.

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

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

Enhance the Quality of Life

Motion--

Brewer moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator. Motion carried 7 to 0.

--carried

**STREET CLOSURE**     **WICHITA MARATHON, OCTOBER 21, 2007, 7:00 A.M. TO 2:00 P.M. THROUGHOUT SOUTHEAST WICHITA INTO DOWNTOWN AND OLD TOWN. (DISTRICTS I, III, IV, AND VI)**

Agenda Item No. 7b.

In accordance with the Community Events Procedure, the event promoter Clark Ensz of Run Wichita is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Wichita Marathon, October 21, 2007 7:00 am – 2:00 pm throughout southeast Wichita into Downtown and Old Town.

31st Street south, McConnell Air Force Base to Oliver, west bound curb side lane. 9:00 am – 12:30 pm

Oliver Street, 31st Street south to George Washington Boulevard, north bound curb side lane. 9:30 – 12:30 pm.

George Washington Boulevard, Oliver to Mt. Vernon, west bound curb side lane. 9:30 am – 12:45 pm.

Mt. Vernon, George Washington Boulevard to Linwood Park, west bound curb side lane. 9:45 am – 1:15 pm.

Douglas Street, I-135 to Mead Street, west bound curb side lane. 9:45 am – 2:00 pm.

Mead Street, Douglas to Second Street. 9:45 am – 2:00 pm

2nd Street, Mead Street to Moore Street. 9:45 am – 2:00 pm

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

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 457

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

Enhance the Quality of Life

Motion-- Brewer moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 7 to 0.  
--carried

## **GILBERT/MOSLEY PROFESSIONAL SERVICES (LEGAL)-GILBERT AND MOSLEY PROJECT. (DISTRICTS I, III, AND VI)-SUPPLEMENTAL.**

Agenda Item No.8a.

The City entered into a professional services agreement and subsequent supplemental agreements with Stinson Morrison Hecker LLP (formerly Stinson, Mag & Fizzell) to provide legal advice on environmental matters relating to the investigation and clean-up of groundwater contamination in the Gilbert & Mosley Site. That firm assisted staff and Council on a number of elements on the project and handled litigation for the recovery of costs from responsible parties. The firm remains under contract to continue to provide advice and legal representation as needed on complex matters, including collection from one of the responsible companies with a pending Delaware bankruptcy.

This supplemental agreement provides additional authority to continue to use the services of Stinson Morrison Hecker LLP on an as-needed basis for particular legal and environmental issues in the Gilbert & Mosley project, including the completion of matters relating to litigation.

This supplemental agreement provides authority for an additional \$100,000 in legal services and related expenses. These services are currently budgeted and will be paid out of the Gilbert & Mosley TIF.

Provide a Safe and Secure Community by working with City Staff to provide the means of improving environmental health and Internal Perspective.

The contract amendment is approved as to form by the Law Department.

Motion-- Brewer moved that the Supplemental Agreement be approved and the appropriate signatures authorized.  
--carried

## **KDOT WICHITA/HAYSVILLE/COUNTY/KDOT AGREEMENTS: MERIDIAN IMPROVEMENT, 71ST STREET SOUTH TO 47TH STREET SOUTH. (DISTRICT IV)**

Agenda Item No. 8b.

Sedgwick County has applied for and received approval of Federal Transportation funding to improve Meridian, from 71st St. South in Haysville to 47th St. South in Wichita. The Federal funds, which are administered by the Kansas Department of Transportation, will pay up to 80% of eligible project costs. The County will administer the project. A Wichita/Haysville/County/KDOT agreement and a City/County agreement have been prepared to establish a basis for the project.

The project consists of widening Meridian to four lanes and constructing a storm water sewer system.

The agreement provides that the local cost of the project will be funded by Wichita, Haysville and Sedgwick County. The estimated cost of Wichita's share is \$355,789 plus the cost of right-of-way acquisition and utility relocations within the Wichita city limits. The project will be returned to the City Council at a future date for final approval of the project budget.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 458

This Agreement addresses the Efficient Infrastructure goal by improving an important transportation route.

The Law Department has approved the Agreements as to form.

Motion--  
--carried

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

## NORTHGATE

### **CONSTRUCTION ENGINEERING AND STAKING IN NORTHGATE ADDITION, NORTH OF 53RD STREET NORTH, WEST OF MERIDIAN. (DISTRICT VI) - SUPPLEMENTAL**

Agenda Item No. 8c.

The City Council approved the storm water improvements in Northgate Addition on October 24, 2006. On March 27, 2007 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

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

Payment to Baughman will be on a lump sum basis of \$36,200 and will be paid by special assessments.

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

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

Motion--  
--carried

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

## MAIN 16

### **DESIGN MAIN 16, SANITARY SEWER NO. 23, EAST AND WEST OF ARKANSAS, BETWEEN 37TH AND 46TH STREET NORTH. (DISTRICT VI) - SUPPLEMENTAL**

Agenda Item No. 9a.

On March 22, 2005, the City entered into an Agreement with Ruggles & Bohm, P.A. to design a sanitary sewer main to serve an area east and west of Arkansas, between 37th and 46th Street North. The fee was \$43,000. On February 7, 2006, the City Council approved a Supplement Agreement to design a lateral sanitary sewer that had been petitioned for the area. The fee was \$30,000.

A number of additional work items have developed that should be addressed by an additional supplemental agreement: (1) the planned main and lateral routes have been revised due to an inability to acquire required easements, (2) a revised service plan is needed to make future maintenance work more efficient, (3) lateral elevations will be revised to lessen the impact of dewatering during construction on adjacent private water wells and (4) add laterals for an additional improvement district that has been formed by petition.

Payment to Ruggles & Bohm for this Supplemental Agreement will be made on a lump sum basis of \$18,900, and will be paid by Special Assessments and the Sanitary Sewer Utility.

This project addresses the Efficient Infrastructure goal by providing sanitary sewer mains and laterals in a developed area.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 459

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

Motion--  
--carried

Brewer moved that the Supplemental Agreement No. 2 be approved and the necessary signatures authorized. Motion carried 7 to 0.

## CONTRACTS

### CONTRACTS AND AGREEMENTS FOR JULY 2007.

Motion--carried

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

## SENIOR MANAGE.

### SENIOR MANAGEMENT EXPENSES FOR JUNE 2007.

Motion--carried

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

## SETTLEMENT

### SETTLEMENT OF LITIGATION.

Agenda Item No. 12.

On July 3, 2007, the City Council approved a settlement for a dispute arising from the damage caused in November 2004 by a water line failure adjacent to an office plaza and the Murdock Street Bridge. The City Council approved the mediated agreement and authorized the payment of \$280,000 from the Wichita Water Utility fund.

The Wichita Water Utility fund already pays an annual fee into the City of Wichita's Self-Insurance Fund to cover all liabilities that may arise regarding the Water Department. Therefore, this settlement should be paid from the Tort sub fund of the City's Self-Insurance Fund and not the Water Utility Fund. Otherwise, the Water Department would be charged twice: once for its annual Self-Insurance fee and once for the \$280,000 Wingate Plaza Litigation Settlement from Water Utility Funds.

The Tort sub fund typically funds the settlement previously agreed to and approved by the City Council on July 3, 2007; however, a transfer from Risk Management contingency funds will be necessary.

The payment of the \$280,000 settlement is a part of the Internal Perspective goal. Payment of the settlement to the correct sub fund is consistent with sound risk control features and maintains the compromise lump sum mediated agreement.

Motion--  
--carried

Brewer moved that the payment of the \$280,000 settlement for the Wingate Plaza from the Tort sub fund of the City's Self-Insurance Fund and any necessary budget adjustments be authorized. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 460

CHDO

## HOME CHDO HOUSING DEVELOPMENT FUNDING ALLOCATION.

Agenda Item No. 13.

On October 16, 2001, the City Council approved acceptance of a property donation by the Tjaden family, owners of a tract of land located at 25th Street North and Minnesota, and also agreed to donate the subject land to Power CDC, a City-designated Community Housing Development Organization (CHDO), for the development of affordable single-family housing by Power CDC. The development was to be funded through the City's HOME Program, and private sector construction loans. The donation of the land to Power CDC was contingent upon the determination that the land could be developed with housing, following testing performed with Brownfields grant funding. The donated land west of Minnesota between 25th and 26th Streets was determined to be suitable for the development of single-family housing. Power CDC recently completed construction of the 23rd and final home within this western portion of the donated land. Twenty-two of the homes have been sold to owner-occupant, income-eligible families.

The Kansas Department of Health and Environment deemed it necessary to conduct further testing of the eastern portion of the donated land, which is located north of 27th Street, between Minnesota and Madison Streets, prior to the start of construction. Following completion of this testing, and evaluation by the Environmental Services Department, it was concluded that development of housing on the eastern portion of the land, could go forward, provided that indoor air quality mitigation techniques are incorporated into construction of the homes. Power CDC is now ready to begin construction of homes at this location. The area proposed for development includes sites for 30 single-family homes.

In order for the development to go forward, it will be necessary for Power CDC to construct an interior cul-de-sac, which will be known as Piatt Circle, as well as the accompanying infrastructure. The City's subdivision regulations also require Power CDC to pave 26th street, and to also pave the west side of Madison, north of 26th Street North. A benefit district has been established and petitions have been signed in order to provide for this construction. The cost of the project will be funded through the City's Special Assessment Program unless other sources can be identified. Federal or other subsidies would lessen the impact of special assessments on the residential lots to be developed. Power CDC will not develop the homes at a pace sufficient to carry the costs of the special assessments over the next four to six years. Therefore, staff is recommending the utilization of funding under a HOME Program regulation that applies to CHDOs, which permits the retention of sale proceeds in order to cover the special assessment costs, until such time as the development can be completed.

The mechanism recommended by staff provides for an allocation of CHDO set-aside funding in the amount of \$117,000. This funding would provide Power CDC with the ability to construct one home, and to make the necessary site improvements. The home would be sold to an owner-occupant homeowner, with proceeds, following payment of applicable costs of sale and a developer fee, to be retained by Power CDC for the express purpose of covering the costs of special assessments and land maintenance to be incurred for a period of approximately three years. The funding agreement specifies the use of the sale proceeds for the previously described purpose. HOME Program staff will monitor the funding on an annual basis to ensure that it is used as intended.

In order to comply with the applicable regulation, it will be necessary to amend the City's 2007-2008 HUD Consolidated Plan in order to provide for an increase in the CHDO set-aside funding. Although this action is an amendment to the plan, it is not a substantial amendment, as the funding does not exceed 15% of the City's annual HOME funding allocation, and does not involve the creation of a new activity, as Power CDC has already received CHDO set-aside funding for the construction of single-family homes within the Northeast Local Investment Area.

Funding proposed for this allocation is available in the form of unallocated entitlement funds available due to the repayment of HOME Program-related loans.

Projects to be funded under the subject HOME funding agreement will contribute to the goal of Economic Vitality and Affordable Living.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 461

Funding provided under the proposed agreement must be approved by the City Council. The funding agreement with Power CDC has been drafted by Housing and Community Services staff and approved as to form by the City Law Department. Assistance loans provided to homebuyers for the purchase of homes constructed under the agreement with Power CDC are secured with a mortgage on the property. The mortgage serves as the long-term deed restriction required under the HOME regulation to preserve affordability.

Motion--  
--carried

Brewer moved that the funding allocation in the amount of \$117,000 and the funding agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## LIDAR GRANT

### WICHITA POLICE DEPARTMENT LIDAR GRANT.

Agenda Item No. 14

The Wichita Police Department has placed an emphasis on reducing and monitoring excessive speeding in the City of Wichita. Last year, the City of Wichita Police Department issued approximately 71,000 traffic citations, with a large number of those citations being for excessive speeding. The enforcement of excessive speed violations directly relates to the number of incidents that result in serious injury or death. In 2006 the City of Wichita had 36 vehicle fatalities; many of which resulted from excessive speed. In order to continue with enforcement of traffic violations the Wichita Police Department needs to replace 12 LIDAR (light detection and ranging) units. Assistance was requested and granted from the Kansas Department of Transportation to fund the purchase of additional units. The grant application has already been signed by the City Manager and submitted in order to meet the deadline of completion of the project by September 30, 2007, pursuant to authority under Administrative Regulation 2.4, where delay would invalidate the grant.

The Kansas Department of Transportation is providing financial support for the purchase of 12 new Kustom ProIII LIDARs, speed detection guns, to be purchased from Kustom Signals as a sole source provider in accordance with Purchasing Ordinance 38.122J Intergovernmental Contracts and Agreements and 35.85B Sole Source providers. The sole source will be through City Purchasing using the State of Kansas contract with Kustom Signal. This contract has been competed and approved by the State.

The Wichita Police Department grant application requests funding for the LIDAR program in the amount of \$37,608 with \$26,325.60 coming from the Federal share and \$11,282.40 from under expenditures within the Police Department budget.

Provide a safe and secure community by placing an emphasis on reducing excessive speeding violations and the number of traffic related fatalities by developing a strategy of aggressive traffic enforcement with a desired outcome of reducing traffic fatalities.

Law Department had assisted the Police Department with the grant application. City Code section 2.64.020 allows sole source procurement when items are available only from one vendor.

Motion--  
--carried

Brewer moved that the application be approved; the appropriate signatures authorized; and any necessary budget adjustments approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 462

## ORDINANCES

### SECOND READING ORDINANCES: (FIRST READ JULY 24TH)

a. 2008 Annual Operating Budget and 2007 Budget Revisions.

The City Council has received the City Manager's Proposed 2008/2009 Budget (including tax increment financing districts). The Council is receiving public comment at its weekly Council Meetings.

ORDINANCE NO. 47-531

1. An Ordinance making and fixing general tax levy for the City of Wichita, Kansas, for the year beginning January 1, 2008, and ending December 31, 2008, and relating thereto, and concurrently approving certain amendments to the 2007 adopted Budget, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

ORDINANCE NO. 47-532

2. An Ordinance making and filing an increment in ad valorem taxes for the East Bank Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

ORDINANCE NO. 47-533

3. An Ordinance making and filing an increment in ad valorem taxes for the Old Town Cinema Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

ORDINANCE NO. 47-534

4. An Ordinance making and filing an increment in ad valorem taxes for the Old Town Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 463

## ORDINANCE NO. 47-535

5. An Ordinance making and filing an increment in ad valorem taxes for the 21st and Grove Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

## ORDINANCE NO. 47-536

6. An Ordinance making and filing an increment in ad valorem taxes for the Central and Hillside Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

## ORDINANCE NO. 47-537

7. An Ordinance making and filing an increment in ad valorem taxes for the Gilbert and Mosley site Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

## ORDINANCE NO. 47-538

8. An Ordinance making and filing an increment in ad valorem taxes for the North Industrial Corridor Redevelopment District, City of Wichita, Kansas, for the fiscal year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

## ORDINANCE NO. 47-539

9. An Ordinance making and fixing general tax levy for the Downtown Wichita Self-Supported Municipal Improvement District for the year beginning January 1, 2008, and ending December 31, 2008, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

## **SECOND READ ORDINANCES: (FIRST READ AUGUST 7, 2007)**

- b. Hillside Bridge at Gypsum Creek. (District III)

## ORDINANCE NO. 47-450

An ordinance amending ordinance no. 47-010 of the City of Wichita, Kansas declaring the Hillside Bridge at Gypsum Creek (472-84395) to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 464

- c. 2007 Street Rehabilitation Program. (Districts II, IV, V, & VI)

ORDINANCE NO. 47-451

An ordinance declaring Seneca, from 49th Street. North to 53rd Street. North; 21st, from Greenwich to the K-96 freeway; Woodchuck, from Kellogg to Maple and Douglas, from West Street. to Anna (2007 street rehabilitation program) 472-84578 to be main trafficways within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficways; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, , read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

- d. Sign Code Amendments, Title 24.04, relating to Electronic Message/"LED" Signs.

ORDINANCE NO. 47-542

An ordinance amending sections 24.04.060, 24.04.085, 24.04.185, 24.04.220 and 24.04.251 and repealing the originals of said amended sections; and creating Section 24.04.223, all in the code of the City of Wichita, Kansas, and pertaining to the sign codes of the City of Wichita, Kansas, , read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

- e. Amendments to 2007 Non-exempt Salary and Classification Ordinances for IAFF Agreement.

ORDINANCE NO. 47-543

An ordinance providing for a uniform schedule of standard pay ranges for non-exempt employees of the City of Wichita, repealing ordinance no. 47-491, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

ORDINANCE NO. 47-544

An ordinance establishing position classifications for non-exempt employees of the city of Wichita and prescribing pay rates by reference to position classifications in the schedule of pay ranges repealing ordinance no. 47-269, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

- f. CUP2007-25 Associated with ZON2007-25–Create DP-305 Scholfield-Honda Commercial Community Unit Plan; zone change to “LC” Limited Commercial. Generally located between Kellogg Drive, Gouverneur Road, Orme Street and Mission Road. (District II)

ORDINANCE NO. 47-546

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Fearey Gray Longwell, Schlapp Skelton Williams and Brewer.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 465

## UNFINISHED BUSINESS

CIP

### PROPOSED 2007-2016 CAPITAL IMPROVEMENT PROGRAM. (DEFERRED AUGUST 7, 2007)

Kelly Carpenter

Director of Finance reviewed the item.

Agenda Item 15aa.

The proposed 2007-2016 Capital Improvement Program (CIP) was initially prepared by the CIP Administrative Committee and later improved as a result of Council workshop discussions and feedback from the District Advisory Boards. The proposed CIP has been presented to the Metropolitan Area Planning Commission (MAPC). As in years past, this proposal reflects revised revenue estimates, updated cost figures and continues the commitment to City Council and community priorities.

The proposed capital program responds to and anticipates community needs, uses City funds to maximize other revenue sources - particularly Federal and State grants - and maximizes the number and scope of capital investments in the City's infrastructure. Direct Council feedback and public comment were crucial to the creation of this comprehensive program, including input from the District Advisory Boards (DABs).

The proposed CIP includes more than 400 projects totaling over than \$2 billion over 10 years. Like the operating budget, the CIP supports the five goals adopted by the City Council. Major projects by goal area include:

Safe & Secure Community – Heartland Preparedness Center, fire stations, police substations, fire apparatus, fire training grounds, and animal shelter.

Economic Vitality & Affordable Living – air terminal, neighborhood improvements (special assessments), and water/sewer main extensions to support new development.

Efficient Infrastructure – Kellogg freeway, bridges, streets, intersections, sidewalks, and water and wastewater projects.

Quality of Life – Botanica expansion, PROS Plan, refurbished parks and golf course improvements.

Core Area & Neighborhoods – neighborhood plans, including the 21st Street Corridor, Downtown, McAdams, Historic Midtown, and Delano.

The proposed Capital Improvement Program is funded from many sources: the 10-mill property tax comprises 18% of resources (GO or at-large funding), Local Sales Tax (LST) revenues fund 7% of the capital program and enterprise revenues fund 31%. State and Federal funding, much of it leveraged with local matching funds, provides 15% of total resources. Special assessments and Tax Increment Financing fund 13% and 3%, respectively. Finally, all other sources (including sources yet to be identified and public-private partnerships) fund 13% of the Program.

It is proposed that the City Council authorize the 2007, 2008, and 2009 CIP as capital budgets, allowing design to commence on the scheduled projects and grant applications to be filed for project financial support.

The 2007 – 2016 Capital Improvement Program contains 412 projects totaling \$2.4 billion. The proposed capital budgets by year are: 2007 - \$156 million, 2008 - \$278 million, and 2009 - \$304 million. The CIP is balanced as to revenues and expenditures.

Implementation of the proposed program is expected to allow the City to maintain its favorable general obligation bond ratings by Moody's and Standard & Poors.

The CIP affects all five Goals approved by City Council. Most of the projects support Efficient Infrastructure, but there are significant investments in support of a Safe & Secure Community, Economic Vitality & Affordable Living, Quality of Life, and Core Area & Neighborhoods.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 466

As mandated by Ordinance 39-196, one-half of the revenue received from the City's portion of a one percent county wide sales tax is pledged for road, bridge, and highway projects, including right-of-way acquisition and project design and construction.

- Council Member Skelton Council Member Skelton asked Staff is there will be a problem changing the line item for the U.P. Railroad to general railroad funding and eliminating the name of the project as U.P. Railroad.
- Kelly Carpenter Director of Finance stated she did not put that in today's recommendation and if Council would like for her to do that, they could add that to the recommended action.
- Council Member Schlapp Council Member Schlapp stated when we get towards the end of the budget process and Staff is coming at the Council with all kinds of projects, it is hard for the Council to find enough time to get things resolved and questions answered and she is recommending that at least for her as we approve the CIP, that she would like to have regular meetings as often as possible so that Staff and Council are building together as a team toward the next CIP and when we get to the end it will not be so confusing for everybody.
- Mayor Brewer Mayor Brewer stated he is getting emails regarding Century II due to the article in today's paper and would like Staff to address it today so that the public will have an opportunity to find out exactly what is happening and going on.
- George Kolb City Manager reported that it has been a long time since Century II was first constructed and or modified and there are signs of deterioration of the facility and we need to do something about it. Stated there is also increase evidence that our competition such as Overland Park and other communities that we compete with have newer facilities, which make it very hard for us to compete with and we are finding it increasing difficult to market Century II. Therefore with those kinds of pressures, they felt it would be prudent for them to begin at least initially discussions on the future of Century II as to whether or not it should be repaired in its present state or look at other options for making it more competitive for markets around the region. Stated the headline in today's paper is misleading and if you read the article it clearly points out the deficiencies that we are facing. Stated in the budget under general operating, we have close to one million dollars to make necessary repairs on the facilities HVAC system and the kitchen. Stated those are just "band-aid" approaches to it and we also have issues with the restrooms, etc. Stated the number that the newspaper referred to showed the majority of the project in terms of construction, beginning in 2012, which gives Council plenty of time to make a plan, debate, discuss it, and have focus groups in terms of what Century II should be. Stated it is just a plan or a placeholder and there are no general obligation bonds and do not know where the funds would come from and that would need to be discussed also.
- Vice-Mayor Fearey Vice-Mayor Fearey stated she does not mind starting public discussions but what bothers her is that we have picked on thing and put it in the budget when our libraries, parks, and streets need work. Stated she would rather see us if we are going to do something, follow along with what Visioneering Wichita has been doing and bring larger groups of the public together and decide as a community what we think our priorities are. Stated she does not think we can just make the decision from the bench that Century II is our priority. Stated she would have to hear from the people in District VI to know what their priorities are and we need as a community to look at a whole lot of things. Stated she does not mind seeing conversations started but would rather see it on a larger scale as more of a capital improvement public dialogue where people really think our money needs to be spent and what their priorities are.
- Council Member Schlapp Council Member Schlapp asked if the Council could get a list of those things that are unfunded or on the "wish list" that could be great projects but we have not figured out if that is where we want to go, so that the Council could begin to deal with them.
- George Kolb City Manager stated that is an error, it is not funded, however, there is included in the Council's CIP a list of the projects that are not included but if there are any others that are not funded, they will provide to Council.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 467

Council Member Longwell Council Member Longwell stated the next two years of the CIP is what we are talking about as a finite plan and anything out past two years is not funded but everything on that CIP to even include what is in there in the next two years will come back before the Council for an official vote. Stated he is comfortable with approving the CIP today understanding it in the context that he is really focusing on the next two years and everything else beyond that is kind of a "wish list" and they will all come back before the Council for any kind of a project or vote.

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

Motion-- Brewer moved that the 2007 – 2016 Capital Improvement Program be approved and authorize initiation of projects scheduled for 2007, 2008, and 2009, with appropriate design solicitations and filing of applications for available State and Federal project support and to include the changing of the name of the railroads to rail grade separations. Motion carried 7 to 0.  
--carried

## NEW BUSINESS

### **2008 BUDGET** 2008 ANNUAL OPERATING BUDGET AND REVISIONS TO THE 2007 BUDGET.

Kelly Carpenter Director of Finance reviewed the item.

Agenda Item No. 16.

The 2007/2008 Proposed Budget has been presented to the City Council, including presentations at workshops, at District Advisory Board (DAB) meetings and at the joint DAB meeting. Presentations have included proposed increases in Water Utilities and Golf rates. The City Council has received public comments on the proposed 2007/2008 budget, both formally at regular meetings of the Council and informally at the DAB meetings. On July 24, 2007, the City Council placed the budget ordinances on first reading and authorized the publication of the hearing notices, establishing the maximum taxes levied for the 2008 City budgets.

2008 Operating Budget. The proposed 2008 annual operating budget was officially published at \$495,619,910 – including all Tax Increment Financing (TIF) Funds and the Self-Supporting Municipal Improvement District (SSMID) Fund. Interfund transactions and appropriated reserves increase this amount to \$614,236,200. The inclusion of expendable trust funds, as required by law, is an additional \$62,845,410 for a total of \$677,131,610. The estimated mill levy for this budget would be 31.953 mills, no change from the levy for the current 2007 Adopted Budget.

The General Fund property tax levy is \$65,744,600 (including a delinquency allowance) at an estimated 21.953 mills. The levy for the Debt Service Fund is \$29,947,890 (including a delinquency allowance) and is estimated at 10.000 mills. The total tax levy is \$95,692,490.

There are a total of seven TIF Funds, two environmental TIFs (Gilbert & Mosley and North Industrial Corridor) and five economic development TIFs (East Bank, Old Town, 21st & Grove, Central & Hillside, and Old Town Cinema). The combined resources of the seven TIF Funds is \$8,163,260, of which \$7,037,930 is derived from property tax increments.

The SSMID Fund is included in the proposed budget assuming a mill levy rate of 5.987 mills and a delinquency factor of 5%, the new valuation projections would result in \$591,090 revenue net of delinquency in fiscal year 2008 (2007 taxes levied). Factoring revenue from prior year delinquencies (\$25,980) and motor vehicle tax revenue (\$18,670) results in a total of \$635,740.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 468

Jointly Funded Budgets. The General Fund includes City of Wichita contributions to the jointly funded City County budgets, as identified in the table below.

2006 Proposed Budget	City	County	Revenue	Total
Flood Control	903,980	903,980	0	1,807,960
Metropolitan Area Planning	808,470	808,470	282,950	1,899,890

It is necessary for the City Council to approve joint agreements to continue these functions. The County Commission is expected to likewise approve the County share of these functions. It is also necessary to amend the current year contract for Planning, increasing the City and County shares from \$761,570 each to \$772,290 each and revising the total from \$1,806,900 to \$1,827,530. Wages have been re-calculated for the 2007 revised budget and are slightly higher than anticipated in the 2007 Adopted budget.

2007 Revised Budget. In addition to action on the 2008 Budget, it is requested that action be taken to amend the 2007 Adopted Budget – as contained in the proposed budget submitted to the City Council:

1. The Special Alcohol Programs Fund increase of \$29,090 is due to increased costs in the contractual program administration. Higher than anticipated revenues (from state transfers of liquor tax funds) are more than sufficient to offset this increased expenditures.
2. The City-County Joint Operations Fund increase of \$21,440 is due to the re-calculation of staff personal services, with expenditures increasing due primarily to changes in employee benefit utilization, and base wages, due to employee turnover.
3. The Water Utility Fund increase of \$1,987,020 is due primarily to the initial inclusion into the operating budget of costs that are eventually at year-end capitalized and charged to appropriate project accounts. Without the expenditure authority increase, accounting for these costs would be much more complicated.
4. The Sewer Utility Fund increase of \$556,460 reflects the cumulative effect of several smaller increases, including higher utility costs, backflow preventers for areas of repeated sewer backups, and increases in line items affected by increased fuel pricing.
5. The Self Insurance Fund increase of \$472,370 reflects the inclusion in the revised budget of the transfer of \$500,000 from the Pension Reserve Fund to the General Fund. This non-recurring transfer refunds to the General Fund the contributions made in 2007.

Rate Adjustments. The 2007/2008 Proposed Budget also contains projected increases for Water Utility rates, Sewer Utility rates, and Golf fees. Rate pressures in the Water and Sewer Utilities are driven almost exclusively by capital needs associated with major investments. These investments ensure the Utilities are able to keep pace with growth in the metropolitan area and guarantee a reliable source of water for the community through the year 2050. The proposed annual rate increases are 6% and 6% for the Water Service and Sanitary Sewer, respectively.

Golf Green fees are proposed to increase \$2 per round. This increase will fund CIP improvements at each of the five courses. Clubhouse renovations will be the focus of this effort, but other aspects of the courses will be renovated.

Budget Administration. To implement the 2007 revised budget as authorized by the City Council, several budget administration approvals are necessary. Expenditure control levels are established as part of the budget adoption process for each department, at the accounting character level. Several budget adjustments will be necessary to implement the revised budget. The budget includes \$450,000 for employee compensation and \$375,220 for payroll accrual, included at the General Fund level, pending a calculation of actual costs for these items at year-end. Expenditures for the Art Museum fund are budgeted by character based on estimated personal services costs; annually, to provide flexibility for the Art Museum Board, any salary savings within the Art Museum Fund are transferred to contractual accounts. The City frequently uses contracted part time labor in lieu of full time staffing for short-term coverage when appropriate and cost effective. To the extent that these costs are greater than expected (offset by personal services savings), budget adjustments are necessary.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 469

To complete the traffic signal modernization project – which will save over \$250,000 a year when implemented – it is necessary to create a \$750,000 capital project to initially fund the implementation, and any budget adjustments needed to transfer savings from Public Works to pay back the initial expenditure. Finally, the budget includes 14 additional firefighters, partially funded by grant funds. To ensure the addition of these positions, staff needs to apply for grant funding prior to August 31, 2007. This item is scheduled for the Council agenda on August 21, but is included here to avoid delays in the grant application.

Publication of the notice of formal hearing on July 24 set the maximum dollars that may be expended in each fund. The City Council may reduce expenditures required (and proposed tax dollars to be levied) but not increase expenditures previously established and published.

Approval of the proposed rate increases in the Water Utilities and Golf will financially provide for the projects identified in the City's Capital Improvement Program (CIP) and sustain all current operations.

The adoption of the annual budget provides the funding sources for services provided in each of the five goal areas.

Publication requirements of State law for the final (formal) public hearing have been met. Appropriate disclosure is included within the ordinance of property tax increases not related to assessed value added by improvements, appreciating personal property and/or annexation. Following final Council action on the proposed budget, proper certification will be made of the property taxes to be levied in conformity with State law.

Mayor Brewer

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

Motion--

Brewer moved that the public hearing be closed and 1) Approve the 2008 budgets and the second reading of the necessary budget ordinances, including those for the tax increment financing (TIF) districts and the self-supported municipal improvement district (SSMID); 2) Approve amending the 2007 budget for the Special Alcohol Fund, the City-County Joint Operations Fund, the Water Utility Fund, the Sewer Utility Fund and the Self Insurance Fund; 3) Approve the joint agreements with Sedgwick County (including amendments to the 2007 City-County Metropolitan Area Planning operating budget); 4) Approve the proposed new schedule of rates and charges for Water Service and place the ordinance on first reading; 5) Approve the proposed new schedule of rates for users of the Sanitary Sewer system and place the ordinance on first reading; 6) Approve the Golf fee increases; 7) Approve the use of local funds derived from property within the corporate limits for the Wichita State University Board of Trustees (Interlocal Agreement between the City and County); 8) Approve necessary budget adjustments and expenditure control levels; 9) Approve the bonding ~~ordinance~~ **resolution** for the Signal Modernization capital project and any budget adjustments necessary to fund the payback; and 10) Approve the application for the SAFR grant for 14 firefighters. Motion carried 7 to 0.

--carried

## RESOLUTION NO. 07-485

A resolution determining the advisability of making certain public improvements in the City of Wichita, Kansas, and setting forth the general nature and the estimated cost of such improvements; authorizing and providing for the making and financing of the improvement in accordance with the findings of the governing body; and directing the publication of this resolution, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

## ORDINANCE

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, introduced an under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 470

## ORDINANCE

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, introduced and under the rules laid over.

## QRTLY REPORT

### QUARTERLY FINANCIAL REPORT FOR QUARTER ENDED JUNE 30, 2007.

Kelly Carpenter

Finance Director reviewed the item.

Agenda Item No. 17.

The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions. The report is available on the City's web-site and citizens may obtain a printed copy by contacting the Department of Finance at 268-4651.

Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise funds, consistent with requirements of revenue bond covenants. The quarterly financial report does not contain all the entries and adjustments that will be reflected in the Comprehensive Annual Financial Report for fiscal 2007.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Information supplementary to the financial statements begins on page 63, including information on the performance of invested funds, the City's bonded indebtedness relative to the legal debt limitations, capital projects currently underway, tax abatements, the status of the Debt Service fund relative to any debt service payments due from the tax increment financing districts, and a quarterly summary of disadvantaged and emerging business activity.

The Director of Finance will provide a financial overview and stand for questions.

The Internal Perspective is advanced with the Quarterly Financial Report providing information on the financial condition of City to the City Council, to the Citizens of Wichita and to investors. In addition, the report demonstrates budgetary compliance with applicable laws and ordinances for the reporting year.

No consideration necessary.

Mayor Brewer

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

Motion--  
--carried

Brewer moved that the Quarterly Financial Report for the quarter ended June 30, 2007 be received and filed. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 471

## TITLE 18

### AMENDMENTS TO TITLE 18 - ADOPTION OF 2006 INTERNATIONAL BUILDING CODE, 2006 INTERNATIONAL RESIDENTIAL CODE AND REVISED BUILDING PERMIT FEE SCHEDULE.

Kurt Schroeder

Office of Central Inspection reviewed the item.

Agenda Item No. 18.

The City's current Building Code adopts model building codes developed and published by the International Code Council, and includes the 2000 Editions of both the IBC and the IRC. In the United States, most jurisdictions with building codes use model building codes as the basis for their local ordinances. Model building codes, such as those developed and published by the International Code Council, are generally updated every three (3) years. For over 40 years, Wichita has reviewed, locally amended, and adopted the updated model building codes on a three (3) or six (6) year cycle. This has helped ensure that Wichita is using the current codes, as well as current tested and certified installation practices, materials and products.

With respect to review of the 2006 editions of the IBC and IRC, committees and subcommittees with representation from the architectural, structural engineering, building construction, building supply, local building association and regional building official community were assembled to study and review both the 2006 IBC and the 2006 IRC. Committees and subcommittees met dozens of times between June 2006 and January 2007 to complete code analysis and review, and to develop recommendations for both staff and the Board of Code Standards and Appeals (BCSA).

Presentations and discussion of the 2006 IRC and IBC, with recommended modifications developed by committees and staff, were made to the BCSA at their December 2006, January 2007 and March 2007 meetings. Public comment was also invited for BCSA consideration. The BCSA recommended adoption of the 2006 IBC, with proposed local amendments, at its January 2007 meeting, and recommended adoption of the 2006 IRC, with proposed local amendments at its March, 2007 meeting. Also, since November 2006, several presentations on the 2006 codes, along with possible amendments, have been made to local industry associations.

From April to early July 2007, Office of Central Inspection staff, working closely with the Law Department, developed adopting ordinances. Final review and approval of the proposed adopting ordinances as to form was provided by the Law Department in July 2007.

Summaries of the most significant changes between the current 2000 IBC and IRC codes, as locally amended, and the proposed 2006 IBC and IRC codes, with local amendments, are included in Attachments 1 and 2.

The Building Permit Fee Schedule in Chapter 18.08 is amended to reference new Code Chapters 18.50 and 18.51 (which adopt the 2006 Editions of the IBC and IRC), and to also update the base building permit fee schedule (the base schedule has not been updated since 1985). However, upon adoption of the new base fee schedule, building permit fees will be discounted so that the amount charged to permittees remains the same (as authorized by City Council Resolution R-95-560).

There are no costs to the City associated with adoption of the ordinance. Adoption of the ordinances will not increase building permit fees.

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. The proposed Building Code ordinances supports the "Provide a Safe and Secure Community" goal by ensuring Wichita's use of the most up-to-date and tested/certified construction safety standards, installation methods and products for new, expanded, remodeled and/or repaired buildings in Wichita.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 472

The Law Department has reviewed and approved the adopting ordinances as to form.

Mayor Brewer

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

Motion--

Gray moved to approve the first reading of the proposed ordinances to: (1) delete Chapters 18.05 and 18.06 of the Code of the City of Wichita, which adopted the 2000 Editions of the International Building Code and International Residential Code; (2) create Chapters 18.50 and 18.51 of the Code of the City of Wichita, which adopt the 2006 Editions of the International Building Code and International Residential Code, with amendments; and (3) amend Chapter 18.08 of the Code of City of Wichita, which modifies the Building Permit Fee ordinance to reference new Code Chapters 18.50 and 18.51, and update base permit fee tables used to calculate building permit fees. Motion carried 7 to 0.

--carried

## ORDINANCE

An ordinance adopting the 2006 International Building Code and City of Wichita amendments thereto, creating Chapter 18.50 and repealing the original of Chapter 18.05 of said code, introduced and under the rules laid over.

## ORDINANCE

An ordinance adopting the 2006 International Residential Code and City of Wichita amendments thereto creating Chapter 18.51 of the Code of the City of Wichita, Kansas and repealing Chapter 18.06 of the code of the City of Wichita, Kansas, introduced and under the rules laid over.

## ORDINANCE

An ordinance amending Section 18.08.010 of the Code of the City of Wichita, Kansas, and pertaining to building permit fees of the City of Wichita, Kansas, introduced and under the rules laid over.

**DISADVANT BUS.**

### **SECOND ANNUAL REVIEW OF THE EMERGING AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.**

Janice Briggs

Contract Compliance Officer reviewed the item.

Agenda Item No. 19.

In September 2003, City Council appointed a 15 member Task Force Team to address concerns expressed by minority business owners in the community. The Wichita Supplier Diversity Task Team then presented 14 recommendations on March 16, 2004. City staff reviewed all the recommendations and presented an action plan on May 25, 2004 to implement these recommendations. On June 8, 2004, City Council appointed an on-going task team to review staff's action plan and finalized the program's policy and procedure manual. On May 10, 2005, City Council approved the Emerging and Disadvantaged Enterprise Policy and Procedure Manual, the action plan for the 14 recommendations, and the creation of the Contract Compliance Officer position. The 1st Annual Review of the Emerging and Disadvantaged Business Enterprise Program was conducted on June 27, 2007 at a City Council Workshop.

The City of Wichita is committed to ensuring equal opportunity, promoting diversity and enhancing economic opportunities for Emerging and Disadvantaged businesses. It is the policy and commitment of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to participate in, compete for and be utilized by the City of Wichita in its procurement of goods and services.

For the past two years the Finance Department/Purchasing Division has continuously strived to find ways to enhance and improve the Emerging and Disadvantaged Business Enterprise Program. City staff has created a Performance Measurement Goal Matrix that has 11 goals, which are used internally to measure several areas of our program for successfulness. These areas that are being measured will give staff insight and guidance on whether anything within the program needs to be changed. City staff has

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 473

been striving to achieve these eleven performance measurement goals that have been established for the program for the past two years.

There are no financial considerations.

The Economic Vitality and Affordable Living Goal is impacted as Wichita area businesses have accesses to potential market expansion through government procurement opportunities, enhancing the quality and diversity of jobs and providing opportunities for the City to partner with economic development stakeholders.

There are no legal considerations.

Denise Sherman Representative of the Wichita Supplier Diversity Task Team stated that they are here today in support of the report that was presented to the Council today by City Staff. Stated the Supplier Diversity Task Team is pleased with the commitment to improve the purchasing procedures from the City and were very pleased with the progress that has been made. Stated that they feel that the Supplier Diversity Task Team should be reappointed for the 2007-2008 year to continue to work with the City to monitor the outcomes and make sure the progress is going smoothly.

Mayor Brewer Mayor Brewer stated this team has really done some great things and appreciates the dedication and hard work. Stated that if there is any possible way where we could make this a standing committee, feels that it would be a great idea.

Council Member Williams Council Member Williams agreed that this should be an on-standing committee.

Mayor Brewer Mayor Brewer asked the Director of Law what would be required of the Council to make this a standing committee.

Gary Rebenstorf Director of Law explained that the Council would have to put it as an agenda item and have a public notice that it is going to be considered and then take action to make it a standing committee of the City Council.

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

Motion-- Brewer moved that the comment from the Wichita Supplier Diversity Task Team and the public be received and reappoint each person on the Committee and ask Staff to put together some type of a policy or recommendation for the Council to make it a standing committee and bring back to the Council at a later date. Motion carried 7 to 0.  
--carried

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

Jim Armour City Engineer reviewed the item.

(Vice-Mayor Fearey momentarily absent)

Agenda Item No. 20.

The proposed 2007-2016 Capital Improvement Program (CIP) includes a project to improve MacArthur between Meridian and Seneca. District IV Advisory Board sponsored a September 7, 2005, neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project.

This project will reconstruct MacArthur to provide four through lanes and landscaped medians for left turn lanes. The intersection of MacArthur and Meridian will be signalized with left turn lanes. A new storm water sewer will be constructed, as well as sidewalk on both sides of MacArthur. Construction is planned to begin early next year.

The proposed 2007-2016 CIP budget is \$5,520,000 with \$2,000,000 paid by the City and \$3,520,000 paid by Federal Grants administered by the Kansas Department of Transportation. The funding source

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 474

for the City share is General Obligation Bonds. These Federal funds need to be obligated by the end of September to meet Federal guidelines.

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

The Law Department has approved the authorizing Ordinance as to legal form.

(Council Member Schlapp momentarily absent)

Mayor Brewer

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

Motion--  
--carried

Gray moved that the project be approved; the Ordinance placed on First Reading; and the signing of State/Federal agreements as required authorized. Motion carried 6 to 0, (Schlapp absent).

## ORDINANCE.

An ordinance declaring Macarthur, between Meridian and Seneca (472-84580) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

**BROADWAY/55TH**

### **IMPROVEMENT TO THE INTERSECTION OF BROADWAY AND 55TH STREET SOUTH. (DISTRICT III)**

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 21.

The proposed 2007-2016 Capital Improvement Program (CIP) includes a project to improve the intersection of 55th St. South and Broadway. District III Advisory Board sponsored a February 1, 2006, neighborhood hearing on the project. The Board voted 11-0 to recommend approval of the project.

The project will reconstruct the intersection to provide left turn lanes at all four approaches. New traffic signals will be installed and the existing drainage system will be improved. The Kansas Department of Transportation (KDOT) will administer the bidding process. Construction is planned to begin early next year. A Westar Energy electrical transmission line will be relocated as part of the project cost. A City/Westar agreement has been prepared to authorize the work.

The proposed CIP budget is \$1,175,000, with \$575,000 paid by the City and \$600,000 paid by Federal Grants administered by KDOT. The funding source for the City share is General Obligation Bonds. The estimated cost to relocate the Westar electrical line is \$45,000.

This project addresses the Efficient Infrastructure goal by improving traffic flow and safety through an important transportation corridor.

The Law Department has approved the authorizing Ordinance and Utility Agreement as to legal form.

Mayor Brewer

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

Motion--  
--carried

Skelton moved that the project and the Utility Relocation Agreement be approved; the Ordinance placed on First Reading; and the signing of State/Federal agreements as required authorized. Motion carried 6 to 0, (Schlapp absent).

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 475

## ORDINANCE

An ordinance declaring the intersection of 55th St. South and Broadway (472-84581) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

### **GREASE INTERCEP. GREASE INTERCEPTOR REQUIREMENTS - AMENDED ORDINANCE.**

David Warren Director of Water and Sewer reviewed the item.

Agenda Item No. 22.

(Vice-Mayor Fearey and Council Member Skelton momentarily absent)

The United States Environmental Protection Agency and the Kansas Department of Health & Environment require the City to control the discharge of pollutants from industrial and commercial sources to the City's sanitary sewer system. Federal Pretreatment Regulations (40 CFR 403) require that Publicly Owned Treatment Works develop and enforce a program that will protect the sanitary sewer collection system, plant operations, City workers' health and safety, and comply with its National Pollutant Discharge Elimination System discharge permit and biosolids disposal regulations. Part of this program includes an effective oil and grease control program that will prevent sanitary sewer blockages and sewage overflows that adversely impact public health and the environment.

The City Council adopted grease control requirements for food service establishments in 1994. Since 1994, the effective implementation of the program has resulted in reduced cost by Sewer Maintenance and Sewage Treatment for grease removal and control in the sanitary sewer system and wastewater treatment plant. The grease related costs have reduced from \$481,000 per year in 1994 to \$74,381 for the year 2006.

Revisions to the current Ordinance are necessary to increase effectiveness in issuing discharge permits and in tracking Best Management Practices. Best Management Practices are implemented by food service establishments to comply with the grease control regulations.

Requirements for food service establishments are:

- All food service establishments discharging grease-laden wastes into the sanitary sewer shall be issued a permit to discharge that states conditions and requirements in the form of Best Management Practices (BMP). BMPs minimize the amount of grease being discharged to the City sanitary sewer system. BMPs include:
- Food Service Establishment wastewater that discharges from fixtures and equipment, which may contain grease, must pass through a City approved grease removal device before entering the sanitary sewer system. The type and size of the grease removal device shall be in accordance with the code. Existing facilities shall be required to install a grease removal device if the facility is found to be contributing grease in quantities sufficient to cause sanitary sewer blockages.
- Grease removal devices shall be maintained by the user, including complete removal of the contents at a frequency of no more than 90 days, or more frequently if needed to prevent grease from passing through the device to the sanitary sewer. The grease and solids collected in the device shall be measured on a monthly basis. All maintenance and monitoring records shall be sent to the City on a monthly basis.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 476

Administrative costs to implement this revision will be recovered in the Food Grease Control Program Permit Fee program. An annual permit fee of \$50 is charged to each food service establishment and is applied to their August water bill. The user pays for installation and maintenance of grease removal devices.

Since this program was implemented, sanitary sewer stoppages related to food grease have been reduced by 73 percent resulting in savings of over \$400,000 per year by the Water Utility for costs previously incurred to remove grease from sewer blockages and grease accumulated at the wastewater plant. The program has also been a source of mitigation for potential liabilities from sanitary sewer backups in private residences and businesses.

This addresses the goal of ensuring efficient infrastructure by providing reliable, compliant and secure utilities.

The proposed amendment has been reviewed and approved by the Law Department, United States Environmental Protection Agency and KDHE.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Don Sailer

Mr. Sailer stated he is with the Kansas Restaurant and Hospitality Association and has a couple of concerns regarding the proposed ordinance. Stated section 16.24.050 requires for a 90 day installation of grease interceptors if a facility is found to be contributing excessively. Stated due to the excessive cost of installing grease interceptors, he questions whether the 90 day requirement is feasible and would suggest that it be extended out to a minimum of 120 days. Stated the other concern he has is in regard to fee schedules and if the information is available he would like to receive it.

David Warren

Director of Water and Sewer stated that the program that they have in place, food services or restaurants would receive a number of notices regarding problems that they are having with the contribution of grease in excess amounts before they would get to the point of requiring that restaurant or food service business to install a grease interceptor. Stated that Staff does not have a problem with giving up to 120 days and does not believe that would represent a problem to them if that is something that would make our local food service industry feel good about this. Stated regarding the fee schedule, Staff has those available and he would be happy to share that information with him.

Motion--

Brewer moved that the amended Ordinance be adopted; the Ordinance placed on first reading; and the necessary signatures authorized with the only revision of allowing 120 days instead of 90 days.

--carried

Motion carried 7 to 0.

## ORDINANCE

An ordinance pertaining to grease interceptor requirements for sanitary sewer system; amending Chapter 16.24 of the code of the City of Wichita; and repealing the original of Chapter 16.24 of the code of the City of Wichita, introduced and under the rules laid over.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 477

COWTOWN

## OPERATION OF OLD COWTOWN MUSEUM.

John D'Angelo

Arts & Cultural Services Manager reviewed the item.

Agenda Item No. 22a.

The Old Cowtown Museum was created over fifty years ago in an effort to preserve local historical buildings, as well as to provide an environment that fosters education opportunities regarding local history. Historic Wichita-Sedgwick County, Inc, has operated the museum based on a lease agreement. The Museum has been funded with contributions from the City of Wichita (\$291,850 budgeted in 2007) and Sedgwick County (\$520,157 budgeted in 2007); contributions, sponsorships, gifts, and fund raisers (approximately \$150,000 annually); and approximately \$350,000 in admissions, sales and rentals. Expenditures annually are approximately \$900,000 for staff; \$80,000 for marketing; \$80,000 for utilities and \$240,000 for other operating expenses.

Old Cowtown Museum has faced numerous challenges in recent years due to limited resources. The museum entered into a Memorandum of Understanding (MOU) with the City in December 2006 to address key maintenance issues, conduct an organizational assessment, and develop a strategic plan to improve the museum. Since that period, many of the issues outlined in the MOU have been addressed, however, the challenge of acquiring private support has been difficult. City Council members and staff have been working with the Cowtown's Board of Directors to improve the situation and serve as liaisons between the Board and the City. Cowtown's Board of Directors have agreed to relinquish control of the current 99-year lease, with the understanding that the City will assume responsibility of daily operations and keep the museum open.

The City has been approached by the Prairie Wranglers, f/k/a the Prairie Rose Wranglers, with an interest in leasing the Visitor's Center from the City as the new location for Wrangler performances. For the City to have authority to accomplish this arrangement, the current lease with Historic Wichita-Sedgwick County, Inc. must be terminated.

Following the termination of the 99-year lease, the City of Wichita, through the Arts and Cultural Services Division, will assume responsibility for the daily operations of Old Cowtown Museum. In addition, the City will be responsible financially for the facility operation. Cowtown will retain its status as a 501C3 non-profit organization, but will enter into a joint agreement with the City. The current Cowtown Board of Directors will continue to operate in an advisory capacity to the City, providing direction over programming and control over the collection, which it will continue to own. The lease termination agreement will also require the City to invest in capital improvements to comply with required health, safety and ADA standards.

The parties expect that incorporation of the Prairie Wranglers into the Cowtown experience will expose a significantly greater number of people to the educational opportunities that Cowtown presents. There is a potential that the arrangement will have a beneficial effect on gate receipts from the Cowtown operation as well.

Under City operational control, it will be necessary to add up to 16 employees. Those currently employed by Historic Wichita, Inc will be interviewed for positions with the City, and other will be recruited as necessary. A search to hire a new Executive Director will be conducted by both the City and Cowtown Board of Trustees beginning in September, 2007. All positions will not be filled immediately, but rather as necessary during the operating season. At this point, pending a classification study, the precise position description of the proposed employees is not known. It is anticipated that the positions and the appropriate classifications will be incorporated into the budget next year.

To fund operations, a budget for Cowtown must be established for 2007 and 2008. Based on past experience, an expenditure budget of \$618,560 is recommended for 2007, and \$1,390,000 for 2008. This is anticipated to be offset in part by continued contributions from Sedgwick County, income earned from facility operations, and other contributions.

	2007	2008
County Contributions*	\$ 0	\$519,609
Other contributions	348,919	146,300
Earned Income	196,735	393,470
Total Revenue	\$581,600	\$1,059,379
Personal Services	\$383,560	\$961,229

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 478

Operating Expenditures	200,000	320,000
Cost of Goods Sold	35,000	70,000
Total Expenditures	\$618,560	\$1,390,000
General Fund subsidy	\$72,906	\$291,850

\* Any portions of the County's budgeted 2007 contributions that have not yet been transferred are reflected in the other contributions line.

Operations of Cowtown will be funded from the General Fund, with revenues generated by the facility credited to the General Fund. To the extent that future operating revenue and contributions are insufficient to cover operating expenditures, the General Fund will be subsidizing Cowtown Operations. However, under this structure, the City will no longer be contributing directly to the Museum, saving \$72,906 in 2007 and \$291,850. In addition, to avoid additional potential impact on the General Fund, additional amounts of supplemental Cultural Arts funding could be used to operate the facility without impacting the General Fund.

Cowtown's estimated 2007 budget is \$618,560, with a 2008 annual budget of \$1.390 million. To establish these expenditures budgets, these amounts will be transferred from General Fund reserves. These transfers will be mostly offset, based on projected revenue and continued participation from the County with increased revenue to the General Fund. In addition, CIP funds will be needed to comply with the lease agreement to bring the buildings up to health, safety and ADA standards.

The Cowtown Museum enhances the Quality of Life by providing opportunities for historical and educational enrichment, as well as entertainment.

The lease termination agreement with Historic Wichita-Sedgwick County, Inc. has been approved as to form by the Law Department. The existing MOU for operations, between the City, the County and Cowtown Board, will be terminated as well. The Law Department will negotiate a new lease with The Prairie Wranglers.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Gordon Bakken

Mr. Bakken stated he feels this is the right approach for this area and that Sims Park has five museums in it, which none of them are doing well. Stated none of them have enough visitors and adding to the attractions in this area is the approach that would bring more visitors. Stated he proposes that the City Council consider trying to take over all of the museums and run them as one unit with perhaps one admission fee and in the open space between the museums other attractions could be added such as an amusement park.

Motion--

Fearey moved that the termination of the 99-year lease with Old Cowtown Museum (Historic Wichita-Sedgwick County, Inc.) and the related annual MOU for operations be approved; ; assume the operation and obligations of Old Cowtown; up to 16 new City positions authorized; the proposed budget approved; any necessary budget transfers authorized; and the negotiation of a lease with the Prairie Wranglers authorized. Motion carried 7 to 0.

--carried

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 479

## PLANNING AGENDA

Mayor Brewer

Brewer stated he would like to pull item 24 for discussion.

Motion--  
--carried

Brewer moved that Planning Consent items 25 and 26 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

ZON2007-00030

### ZON2007-00030-ZONE CHANGE REQUEST FROM "LC" LIMITED COMMERCIAL TO "MF-29" MULTI-FAMILY RESIDENTIAL ZONING. GENERALLY LOCATED WEST OF OLIVER AND SOUTH OF EXTENDED 29TH STREET NORTH. (DISTRICT I)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 23.

MAPC Recommendations: Approve (10-0).  
MAPD Staff Recommendations: Approve.  
DAB Recommendations: DAB I did not review.

The application area is approximately 10.94 acres of land zoned "LC," Limited Commercial located west of Oliver Avenue and south of 29th Street (extended). The application area is undeveloped, and the current owner owns approximately nine additional acres located contiguous to the subject site that are zoned "MF-29," Multi-family Residential and "SF-5," Single-family Residential. The applicant is seeking "MF-29" zoning in order to develop an apartment complex.

The applicant's conceptual site plan depicts 10 individual apartment buildings plus a clubhouse. There are to be 192 units. The tallest building is to be three stories in height. The project will provide 560 parking spaces or 2.9 spaces per dwelling unit, which exceeds code minimums of 1.75 spaces per unit. All of these structures are to be located outside of the 100-year floodplain. Two gated one-way access points, approximately 400 feet apart, are shown along North Oliver Avenue. Partially because of the floodplain, the apartment buildings are to be located approximately 300 feet east of the single-family residences located along North Terrace Drive. (Since this is a zone change, submission of and development of the site consistent with the site plan is not a code requirement.)

The applicant's ownership includes a strip of "MF-29" zoned land abutting the subject site on the west and south. Further west and south on the owner's property is a band of "SF-5" Single-family Residential zoning. The "SF-5" zoned land on the west is to be put into a "reserve" area on the Campus Crest Addition plat that prohibits the use of that area for anything other than open space, private recreation, landscaping, irrigation utilities, parking and drainage. Most of the "SF-5" zoned land to the west is located within the 100-year floodplain, making more intensive development problematic. Even further west is a developed single-family subdivision zoned "SF-5." The "MF-29" and "SF-5" land located south of the site is undeveloped and owned by a church. To the east is Wichita State's Hughes Metroplex on property zoned "LC."

"MF-29" zoning permits up to 29 dwelling units per acre. Limited Commercial zoning permits multi-family uses, however the Unified Zoning Code (UZC) requires "LC" zoned sites over six acres in size to also have an approved Community Unit Plan (CUP). This site does not have an approved CUP. Options for the developer were the creation of a CUP or down zoning the property. The applicant has chosen the later approach.

This application was heard by the City Council on August 7, 2007, and the action of the Council was to defer the item for one week.

At the MAPC hearing on July 5, 2007, there were no speakers in opposition to the request. The MAPC voted (10-0) to recommend approval of the request.

Promote economic vitality.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 480

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

John Schlegel Planning Director stated that since last weeks meeting there has been a request by the Northeast Heights Neighborhood Association for a meeting at their Neighborhood Association meeting on August 23<sup>rd</sup> to meet with both the applicant and Staff to discuss this item. Stated because of that request, the recommendation is that the Council defer this item until after that meeting as you deem appropriately.

Council Member Williams Council Member Williams stated this item has created quite a stir in the community and she would like to give the community as much of a chance to voice their opinion as possible. Stated the meeting is scheduled for August 23<sup>rd</sup> and many of them will be attending that meeting as well as the developers.

Motion--carried Williams moved to defer this item until September 18<sup>th</sup>. Motion carried 7 to 0.

**PUD2006-02#24**

**PUD 2006-02#24-CREATION OF THE WAL-MART AT OLIVER PLATTED UNIT DEVELOPMENT TO ALLOW GENERAL RETAIL SALES. GENERALLY LOCATED SOUTH OF KELLOGG AVENUE, EAST OF OLIVER AVENUE. (DISTRICT III)-REMAND**

John Schlegel Planning Director reviewed the item.

Agenda Item No. 24.

MAPC Recommendation: Approve, subject to staff recommendations (12-1)  
City Council Original Action: Deny (5-2)

The application area is 12.2 acres located southeast of the Kellogg and Oliver intersection, north of Orme and west of Bleckley. The applicants are seeking Planned Unit Development zoning (PUD-24) to allow re-development of the property for "any commercial use permitted by-right in the LC Limited Commercial district," excluding certain listed uses. The expected use on the site is a Wal-Mart, however there are not any requirements within the PUD application that require the site to be developed with any particular brand or company.

DAB II and DAB III heard the application and the Wal-Mart representative attended several neighborhood meetings. The MAPC heard the request on November 2, 2006, and voted 12-1 to recommend approval according to requirements contained in the staff report. Protest petitions representing 41.97 percent of the notice area were submitted. This protest will require a ¾ majority (6 votes) of the governing body to approve the request.

City Council heard the matter on December 6, 2006, and deferred action in order to allow the applicants additional time to address a number of issues that did not appear to be fully resolved. City Council again considered the item on January 9, 2007. A letter from the applicants' representative requested a further deferral and a representative were asked to address the Council on the deferral request. After discussion of the application and the request for deferral, the City Council voted to deny the zoning request (5-2, Nays Gray and Mayans). The applicants appealed the Council's decision to District Court.

The background material previously provided to the Council is attached, along with minutes of the Council meetings.

The District Court heard the appeal from the denial of the application on May 10, 2007. After considering the record on appeal, video of the Council meetings, briefs of the parties, and oral argument, the District Court ruled on June 6, 2007. The Court remanded the case back to the City Council for the Council to provide more information on the factors it considered and the conclusions it came to in making its decision. In the remand, the Court does not preclude the City Council from taking any other action allowed by law and by City ordinance in regard to the matter. The Journal Entry of the Court is attached hereto.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 481

Proposed findings for the denial of the application, as prepared by Staff, are attached. These proposed findings are based upon the record presented to Council, Council deliberations in its prior meetings, and suggestions given by individual Council members to Staff. The City Council may take the recommended action to adopt these finding to support the denial; the City Council may also act to modify or adopt alternative findings for the denial, or may take any other action on the application that is consistent with the Unified Zoning Code and state law.

Promote economic vitality and affordable living.

The City Council needs to adopt findings to support its prior decision or take other action consistent with the Journal Entry of the Court in Nash Special K's LLC, et al. v. City of Wichita, 07 CV 416. The action of the City Council must be reported to the Court for its further consideration of the appeal of the action of the Council.

- John Schlegel Planning Director stated that we have a request by the applicants to defer this item for another 40 days. Stated they are in the process of trying to negotiate purchase agreements with some of the adjacent property owners that were protesting this application. Stated the Council's options today are to either move forward with adoption of the findings or to grant the request for a deferral that is being made by the applicants who are also the appellants in the court case.
- Council Member Skelton Council Member Skelton stated he does have some questions but it would not be appropriate for him to discuss them from the bench and asked for a possible deferral to discuss this in executive session.
- Mayor Brewer Mayor Brewer stated he was going to ask that this item be deferred for one week so that the Council could ask Staff about this particular project.
- Council Member Schlapp Council Member Schlapp stated she is confused by this whole question and feels that the findings are the findings and the Council should agree to them. Stated when we have a vote of Council it is a final vote and when Council comes back and responds to the findings, she feels that we should continue with the findings response and does not understand how that would change the vote and is confused by that.
- Gary Rebenstorf Director of Law explained what we have is a request by the applicants that the Council not take the action to adopt the findings and to allow them time to present some other materials, which they did provide a letter from the attorney and from one of the land owners. Stated it is a decision if the Council wants to go forward with the findings that would be an appropriate action or if the Council would like to defer the matter at the request of the applicants or at the Mayor's suggestion to have some more input about what this deferral means that is where we are today.
- Council Member Schlapp Council Member Schlapp stated that adopting findings does not stop anybody from doing whatever it is they are doing. Asked if there is a concern that we the Council do not understand what we are voting on. Stated the applicant can continue to do what they are doing if these are the findings.
- Gary Rebenstorf Director of Law explained that we are bringing to the Council what the applicants have requested and therefore it is up to the Council to make that decision. Stated if you want to consider what they have or go ahead with the findings and take action.
- John Schlegel Planning Director explained that the applicants are making the request for the deferral because they feel that some of the actions that they are currently taking and that they want more time to continue to act on, may influence the Council's decision on how they want to vote on this. Stated there are a full range of options on how the Council can act on this in the future and they feel if given more time that could influence how the Council might want to act in the future.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 482

Council Member Schlapp Council Member Schlapp stated she does not feel any need to be retro-active on a vote she has already made.

Gary Rebenstorf Director of Law stated some of the issues that would respond to your question would be more appropriate for an executive session since this matter is in litigation.

Council Member Longwell Council Member Longwell stated he agrees with Council Member Schlapp. Stated the confusing part is that you have two new Council Members here and his understanding of this is that it is a court ordered explanation of the Council's vote and has no determination on how the Council would see this project in the future. Stated a deferral does nothing in his opinion except imply, if we come back and say well we think we were wrong three months ago and now we want to change or vote. Stated that does not have any bearing on what the court asked us to do as we move forward. Stated he sees this as simply saying we voted and these are reasons why we voted and can those reasons change in the future and bring them back forward. Asked how this would prevent any developer coming forward again if we said yes, this was their mindset three months ago and these are the reasons why they denied it.

Vice-Mayor Fearey Vice-Mayor Fearey stated she thinks we should just do the findings and move on and if they have substantial changes then they can bring that back and we can start on a clean plate.

Council Member Gray Council Member Gray stated he supports the Mayor's desire to defer this for one week and voting for a deferral does not mean we have changed our previous vote or that we have given any implications to how we vote in the future or give any signals to the community that we have changed our minds. Stated it would give us an opportunity to sit down and have a conversation that we cannot have right here at this moment.

Motion-- Brewer moved to defer this item for a week to allow the Council an opportunity to visit with legal  
--carried counsel. Motion carried 6 to 1, (Fearey-nay).

**ZON2006-09**

**ZON2006-09 – ZONE CHANGE FROM “SF-5” SINGLE-FAMILY RESIDENTIAL TO “LC” LIMITED COMMERCIAL. GENERALLY LOCATED 900 FEET SOUTH OF CENTRAL ON THE WEST SIDE OF TYLER ROAD. (DISTRICT V)**

Agenda Item No. 25.

MAPD Staff Recommendations: Approve a two-year extension to complete platting, with a new platting deadline of May 9, 2009.

On May 9, 2006, the Wichita City Council considered the above request. The action of the City Council was to approve, subject to platting within one year. The applicant submitted a two-year plat extension request to planning staff on July 19, 2007. The applicant indicates that additional improvements are required on the subject property. A plat for the property has been submitted and approved by MAPD; the plat has not been forwarded to City Council. Therefore, the applicant requests a two-year platting extension. This platting extension request requires City Council approval.

Staff recommends that a two-year extension of time to complete platting requirements be granted to May 9, 2009. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Promote economic vitality.

No legal documents are required to grant the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--carried Brewer moved that a two-year platting extension to May 9, 2009 be approved. Motion carried 7 to 0.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 483

CUP2006-24

**CUP2006-24/ZON2006-25-CREATION OF DP-299 NORTHGATE COMMERCIAL PARK COMMUNITY UNIT PLAN (CUP); AND ZONE CHANGE FROM SF-5 TO LC. GENERALLY LOCATED ON THE NORTHWEST CORNER OF 53RD STREET NORTH AND MERIDIAN. (DISTRICT VI)**

Agenda Item No. 26.

MAPD Staff Recommendations: Approve a one-year extension to complete platting, with a new platting deadline of August 1, 2008.

On August 1, 2006, the Wichita City Council considered the above request. The action of the City Council was to approve, subject to platting within one year. The eastern 27 acres of this site has been platted. The applicant indicates that they are in negotiations with a contract purchaser and wish to delay platting the western 50 acres of the site. Therefore, the applicant requests a one-year platting extension. This platting extension request requires City Council approval.

Staff recommends that a one-year extension of time to complete platting requirements be granted to August 1, 2008. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Promote economic vitality.

No legal documents are required to grant the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--carried

Brewer moved that a one-year platting extension to August 1, 2008 be approved. Motion carried 7 to 0.

## **AIRPORT AGENDA**

**TERMINAL AREA**

**TERMINAL AREA REDEVELOPMENT PROGRAM SCHEMATIC DESIGN.**

Victor White

Director of Airports reviewed the item.

Agenda Item No. 27.

On July 18, 2006 the HNTB contract for design of the new airline passenger terminal and related improvements and a budget adjustment was approved by the Wichita Airport Authority contingent on FAA approval. FAA subsequently approved the contract and the design notice to proceed was issued to be effective July 24, 2006.

During the early stage of the schematic design effort the design team was directed to take another look at the viability of rehabilitating and modernizing the existing terminal plus update the cost estimate for the new facility. Analysis found that the rehabilitation of the existing terminal was somewhat less expensive; however, the duration of the renovation would double versus new construction and the disruption and inconvenience to the airlines and passengers was significant, and the additional cost to the airlines was high. Additionally, site constraints would not permit future expansions needed for growth, and the resultant facility would still not function properly in today's airline and security environment. Thus, the decision was made to proceed with schematic design of a new terminal west of the existing terminal.

The Financial Capacity Analysis for the project was completed and presented to the Airport Authority in the fall of 2006, and it was re-affirmed that the target cost for the major elements of the terminal building should remain as originally planned at \$150 million, plus a \$10 million reserve allowance. Based upon that target cost, the architects were directed to eliminate the concept of a dual-level roadway at the front of the terminal and focus on a single-level entrance, which is more appropriate for an airport of our level of airline activity.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 484

Since last fall, the airport staff and the design team have worked with the airlines, tenants, government agencies, and other stakeholders in the project to develop a schematic design which will provide an operationally functional and efficient terminal that meets our goal of being one of low-cost of construction and operation, but which is also expandable as our needs and traffic grow. It is also important that we have a state-of-the-art modern and customer-friendly terminal which is visually memorable, unique, and distinctive in appearance. Based upon feedback from the community, many believe that this new terminal should strongly reflect the aviation heritage of Wichita and its Air Capital role in worldwide aviation, and contain an integration of art and exhibits throughout. Environmental compatibility will be considered in the design and operation of the facility, and the project has been registered for the pursuit of LEEDS certification as a part of our commitment to making the facility as "green" and environmentally sustainable as is reasonably feasible.

The schematic design for the terminal was presented to a joint meeting of the Wichita Airport Advisory Board ("Airport Board") and the Wichita Design Council ("Design Council") on June 18, 2007. Both groups unanimously voted to accept the design and to recommend its approval by the Wichita Airport Authority. The schematic design was later presented to the City Council in a workshop on July 24, 2007, and also at a joint workshop with the Airport Board and the Design Council on August 3, 2007. At the August 3rd meeting, the Design Council took another vote since there were several new members who had not previously seen the June 18th presentation. Again, the vote was unanimous in recommending that the design move forward.

The Airport's contribution to the economic vitality of Wichita is promoted through the Terminal Area Redevelopment program so that our community can have a cost-effective and efficient airline terminal which supports continued growth in airline traffic.

Mayor Brewer

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

Motion--

Longwell moved that the Wichita Airport Authority accept the schematic design and authorize staff to continue to move forward with actions related to design development, and preparation of plans and specifications for the new airline passenger terminal, and its ancillary and related improvements, as well as the enabling projects to prepare the site and utilities for development of the terminal area. Motion carried 7 to 0.

--carried

## CITY COUNCIL

**BOARD APPTS.**

### BOARD APPOINTMENTS.

There were no board appointments to be made.

## EXECUTIVE SESSION

Motion--

Brewer moved that the City Council recess into Executive Session at 2:30 a.m. to consider: pending litigation and legal advice and that the Council return from Executive Session no earlier than 2:40 p.m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 7 to 0.

--carried

**RECESS**

The City Council recessed at 11:09 a.m.

# CITY COUNCIL PROCEEDINGS

JOURNAL 189

AUGUST 14, 2007

PAGE 485

**RECONVENE** The City Council reconvened in the City Council Chambers at 2:47 p.m. Mayor Brewer announced that no action was taken.

Motion--carried Brewer moved to close the Executive Session. Motion carried 4 to 0, (Gray, Longwell and Skelton absent).

Motion--carried Brewer moved to adjourn the Regular Meeting. Motion carried 4 to 0, (Gray, Longwell and Skelton absent).

**ADJOURNMENT** With no further business to come before the City Council, the meeting was adjourned at 2:48 pm.

Respectfully submitted,

Karen Sublett, CMC  
City Clerk