

# CITY COUNCIL PROCEEDINGS

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## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, April 17, 2007  
Tuesday, 9:05 A.M.

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

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

Major Charles Smith, Salvation Army, 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 April 10, 2007, approved 5 to 0.

## AWARDS AND PROCLAMATIONS

Proclamations

### Proclamations:

Mayor Brewer read aloud the following Proclamations:

- Administrative Professionals Week
- Fair Housing Month
- Arbor Day
- Catherine Johnson Day
- Earth Day

Presentation

### Update and Presentation for Law Enforcement Project-Captain Randy Landen.

Capt. Landen

Captain Landen gave an update and presentation for the Law Enforcement Project. Stated that he currently serves as the president of the Law Enforcement Memorial Committee and reported that in 2002, Chief Williams and Sheriff Steed put together a committee to design a memorial to honor law enforcement officers from Sedgwick County who have been killed in the line of duty. Stated they wanted to build a permanent memorial to honor municipal and county law enforcement officers who gave their lives while protecting our communities. Stated in August of 2003, they came before the Council to give a presentation and ask for a location to place the memorial, which will be the property on the northeast corner at Central and Main. Stated in 2005 the memorial design was completed and contracted with a local artist for the bronze sculpture and in August of 2005 they began fund raising efforts and hope that in spring of 2008, they will be able to begin construction on the memorial. Stated the memorial is designed to honor law enforcement officers and behind the wall of the memorial will be a series of granite or marble panels and each one will represent individual officers killed in the line of duty and there will be a plaque on each one with their name, date of service, and badge number and at the bottom of that panel will be a pair of bronze shoes or boots representing the individual officers at the time that they were killed in the line of duty. Reported that they have raised approximately \$335,000 and the money that was raised has come from our community members and everyone has been very supportive. Stated the estimated cost of the memorial is \$500,000.00 and of this \$50,000.00 will be set aside in an escrow account for maintenance of the memorial and while they hope that it never happens, they may have to add names to that memorial as time goes on. Stated that the balance for solicitation remaining for them is \$215,000.00 and anticipate that they will be

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Sherriff Steed Sherriff Gary Steed stated that the Council's support of their law enforcement memorial is an important part of its success and is honored to be a part of establishing our community's law enforcement memorial and there is no adequate memorial otherwise in our community. Stated it is an important addition to our community and is a symbol to our officers that currently serve and a reminder of the contribution that law enforcement officers make everyday to ensure the safety of our citizens. Stated it is also a dignified, respectful, and important symbol to those families who have lost a love one in the line of duty and is a very suitable memorial full of symbolism and inspiration. Thanked the Council for their support and it honors what is good in our community.

Chief Williams Chief Norman Williams stated that this has been a result of dedicated community members as well as the business community that have stepped to the plate to contribute to this memorial. Stated this memorial is an opportunity to recognize what they have done with they have made the supreme sacrifice, which was to be killed in the line of duty while serving and protecting this community. Stated this memorial is a legacy for the 28 law enforcement officers that gave their lives starting in 1871. Thanked the Council for donating the space for this memorial and for their support of law enforcement as a whole.

## PUBLIC AGENDA

### Major Rob Hoeritz-Report on the McConnell AFB Open House.

Major Hoeritz Major Moeritz stated that he is the McConnell Air Force Base Open House Director for 2007 and thanked Wichita for their support. Stated the open house will be on July 14<sup>th</sup> and 15<sup>th</sup> and the gates open at 10:00 a.m. Stated this is a free event, which is open to the public and this year they will be featuring the Blue Angels, the Golden Knights, and will have a plethora of air power. Stated it will be commemorating their 60<sup>th</sup> anniversary and they will have aircraft throughout the history that they have used in all of the different wars. Stated they will be coming back for updates periodically and there are still sponsorship and donor ship opportunities available.

### John Kemp-Speak in opposition of the Boeing Landfill.

John Kemp Mr. Kemp stated that he is in opposition of the Boeing landfill, which is an issue in his neighborhood. Stated he lives in District III and they now have two operating landfills that are approximately ¾ to a mile apart and they are both on the banks of the Arkansas River. Stated he feels there are other locations in Sedgwick County that a landfill could be put other than in a residential area. Stated he did not know the Boeing landfill was there until three months ago when their spokesperson came before DAB III and asked for a reinstatement for their contract. Stated DAB II strongly opposed another C and D landfill in District III. Asked the City Council to deny this reinstatement.

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## CONSENT AGENDA

Council Member Gray Council Member Gray requested that item 11 be pulled for discussion.

Motion-- Brewer moved to approve Consent agenda items 3-17d, excluding item 11. Motion  
--carried carried 5 to 0, (Fearey absent).

## **BOARD OF BIDS**

### REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED APRIL 16, 2007

Bids were opened April 13, 2007, pursuant to advertisements published on:

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

Storm Water Drain #315 to serve Meadowlake Beach Addition north of 63rd Street South, east of Hydraulic (468-84302/751444/485335) Does not affect existing traffic. (District III)

Bob Bergkamp Construction - \$661,875.10

Water Distribution System to serve Brentwood South Addition north of Pawnee, east of Webb (448-90252/735342/470015) Does not affect existing traffic. (District II)

Utilities Plus - \$44,700.25

Motion-- Brewer moved that the contracts be awarded as outlined above, subject to check, same being the lowest  
--carried and best bid within the Engineer's construction estimate, and the necessary signatures be authorized  
Motion carried 5 to 0. (Fearey Absent)

**WATER AND SEWER/PRODUCTION AND PUMPING DIVISION:** Liquid Chlorine (Bulk Delivery).

Brenntag Southwest Inc\*. - \$128,820.00

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

**PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION:** Construction of 4 Interview Rooms.

Schrader Brothers Construction - \$57,649.00

**POLICE DEPARTMENT/AIR SECTION DIVISION:** Helicopter Rotor Blades.

Heli-Mart, Inc. - \$49,800.00

**PARKS AND RECREATION DEPARTMENT/Recreation Division.**

Tim Mills Fence Company - \$33,848.00 (Base Bid)  
\$5,082.00 (Option 1)  
\$4,822.00 (Option 2)  
\$6,248.00 (Option 3)

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WICHITA TRANSIT DEPARTMENT: Janitorial Service Transit Centers and Buses.

AAA Comm Janitorial\* - \$26,078.96

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

IT/IS: 1,500 EmailXtender Tier 2 User Mailboxes/RQ700676 IT/IS Department.

Alexander Open Systems, Inc.\* - \$59,860.00

\*Purchases utilizing Government Entities  
Contracts, Cooperative Contracts and  
Agreements - Ordinance No. 38-122 Section  
2.64.020 (j).

WATER UTILITIES DEPARTMENT: Customer Service Division.

Utility Solutions Associates Inc.\* - \$45,950.00

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

Motion--  
--carried

Brewer moved that the contract(s) be awarded as outlined above, same being the lowest and best bid,  
and the necessary signatures be authorized. Motion carried 5 to 0, (Fearey absent).

CMBS

## APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

|                       |                               |                 |
|-----------------------|-------------------------------|-----------------|
| <u>Special Event:</u> | <u>Wichita River Festival</u> |                 |
|                       | <u>May 11, 12, 13, 2007</u>   |                 |
| John E. Thien         | Jet BBQ                       | West Bank Stage |
| Juanita Albert        | Artichoke                     | Century II      |
|                       | <u>May 14, 15, 16, 2007</u>   |                 |
| Juanita Albert        | Artichoke                     | Century II      |
|                       | <u>May 17, 18, 19, 2007</u>   |                 |
| Juanita Albert        | Artichoke                     | Century II      |

Motion--  
--carried

Brewer moved that the licenses be approved subject to Staff review and approval. Motion  
carried 5 to 0, (Fearey absent).

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## PRELIM. ESTS.

### PRELIMINARY ESTIMATES:

- a. Water Main Replacement in Estelle from Kellogg to Douglas (448-90209/636163/776556) Traffic to be maintained during construction using flagpersons & barricades. (District I) - \$350,000.00
- b. Main 20 Four Mile Creek Sewer to serve Monarch Landing Addition north of 21st Street North, west of 159th Street East (468-84206/744195/480883) Traffic to be maintained during construction using flagpersons & barricades. (District II) - \$749,000.00
- c. Water Distribution System to serve Valencia Addition south of 53rd Street North, east of Meridian (448-90248/735359/470032) Does not affect existing traffic. (District VI) - \$54,000.00
- d. 2007 Contract Maintenance Residential Overlay south of 45th Street South, east of Ridge Road (472-84514/132720/620469/N/A) Traffic to be maintained during construction using flagpersons and barricades. (District II,VI) - \$313,500.00
- e. 2007 Contract Maintenance Hot in Place Resurfacing north of 47th Street South, east of 119th Street West (472-84511/131532/132720/620469/N/A) Traffic to be maintained during construction using flagpersons and barricades. (District II, III, IV, V) - \$946,200.00
- f. The cost of Storm Water Drain No. 317 to serve Monarch Landing Addition north of 21 Street North, west of 159th Street East (District II) (468-84318/751442/485-334) Total Estimated Cost \$286,000.00

Motion--carried

Brewer moved to receive and file. Motion carried 5 to 0, (Fearey absent).

## PETITION

### CONSTRUCT A STORM WATER DRAIN IN MEADOWLAKE BEACH ADDITION, WEST OF CLIFTON, NORTH OF 63RD STREET NORTH. (DISTRICT III)

Agenda Report No. 07-0342

On March 13, 2007, the City Council approved a Petition to construct a Storm Water Drain in Meadowlake Beach 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.

This project will serve a new residential development located west of Clifton, north of 63rd St. North.

The existing Petition totals \$664,000 with the total assessed to the improvement district. The new Petition totals \$828,000 with the total assessed to the improvement district.

This project will address the Efficient Infrastructure goal by providing drainage improvements for a new residential development.

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

Motion--  
--carried

Brewer moved that the new Petition be approved; the Resolution adopted; and the necessary signatures authorized. Motion carried 5 to 0, (Fearey absent).

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## RESOLUTION NO. 07-247

Resolution of findings of advisability and resolution authorizing improving Storm Water Drain No. 315 (west of Clifton, north of 63<sup>rd</sup> Street South) 468-84302, presented. Brewer moved that the Resolution be adopted. Motion carried 5 to 0. Yeas: Gray, Longwell, Schlapp, Skelton, and Brewer (Fearey absent).

## DEEDS/ESMNTS

### DEEDS AND EASEMENTS:

- a. Sanitary Sewer Easement dated March 14, 2007 from Simpson and Associates, Inc., a Kansas Corporation, and Simpson Properties, LLC, a Kansas Limited Liability Company for a tract of land lying within portions of Lot 1, Block 2, R & P Addition and Lot 1, R & P Second Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861) No cost to City (D18068)
- b. Sanitary Sewer Easement dated March 7, 2007 from F & K Enterprises, LLC for a tract of land in Lot 7, West Park Gardens Addition, Sedgwick County, Kansas, (OCA # 607861) No cost to City (D18069)
- c. Sanitary Sewer Easement dated March 7, 2007 from Cook Construction, LLC for a tract of land in Lot 3, West Park Gardens Addition, Sedgwick County, Kansas, (OCA # 607861) No cost to City (D18070)
- d. Drainage and Utility Easement dated March 1, 2007 from Brentwood Development, Inc. for a tract of land lying within portions of Lots 20 and 21, Block 3, Brentwood South Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861) No cost to City (D18071)
- e. Utility Easement dated February 9, 2007 from Fox Ridge Development Company, Inc. for a tract of land lying in Lots 64 and 65, Block 1, Fox Ridge Addition, an Addition to Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City (D18072)
- f. Utility Easement dated February 22, 2007 from BF Owner, L.L.C. for a tract of land lying in Lot 1, Block 1, Bradley Fair 2nd Addition, an Addition to Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City (D18073)
- g. Easement dated February 8, 2007 from Development Partnership for a tract of land lying in Lots 4, 5, 6, 7, 8, 9 and 11, Block 5, Southwest Passage Addition, Wichita, Sedgwick County, Kansas, (OCA # 607861), No Cost to City (D18074)
- h. Utility Easement from The Salvation Army, An Illinois Corporation for a tract of land lying in unplatted tracts of Lot 1, Block 1 Camp Hiawatha Addition to the City of Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City (D18097)
- i. Sidewalk Easement dated February 27, 2007 from Richard G. Fawson and Elizabeth M. Fawson, husband and wife, for a tract of land located in Lot 4, Block A, Auburn Hills 14th Addition, Wichita, Sedgwick County, Kansas, (OCA #766130). No Cost to City
- j. Sidewalk Easement dated march 8, 2007 from Andrew J. Roy and Amanda L. Roy, husband and wife, for a tract of land located in Lot 5, Block A, Auburn Hills 14th Addition, Wichita, Sedgwick County, Kansas, (OCA #766130). No Cost to City

Motion--carried

Brewer moved to accept the documents. Motion carried 5 to 0, (Fearey absent).

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

Agenda Report No. 07-0343

In accordance with the Community Events Procedure, the event promoter Les Eck with Rusty Eck Ford 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 Wakefest, June 9, 2007 8:00 am through June 10, 2007 11:59 pm**

- McLean Boulevard, Douglas Avenue to Lewis Street
- Lewis Street, McLean Boulevard to Wichita Street including the Lewis Street Bridge.
- Douglas Avenue, McLean Boulevard to Waco Street including the Douglas Street Bridge.

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 Events Coordinator. Motion carried 5 to 0, (Fearey absent).

--carried

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

Agenda Report No. 07-0344

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

The following street closure request has been submitted:

### **Run Wichita Memorial Day Run 2007, May 28, 2007 6:00 am – 12:00 pm**

- McLean Boulevard, Seneca Street to Lewis Street
- Lewis Street Bridge, McLean Boulevard to Wichita Street

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

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

Enhance the Quality of Life

Motion--

Brewer moved 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 5 to 0, (Fearey absent).

--carried

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## CLAIMS

### REPORT ON CLAIMS ALLOWED FOR 2007:

| <u>Name of Claimant</u>    | <u>Amount</u> |
|----------------------------|---------------|
| AT&T                       | \$651.09      |
| AT&T                       | \$758.04      |
| Auto Motel                 | \$922.78**    |
| Boles, Robert              | \$200.00      |
| Jacob, Jessica             | \$387.62      |
| Keiter, Laura              | \$3,969.79    |
| Sedgwick County Risk Mgmt. | \$2,011.90    |

\*\* Settled for lesser amount than claimed.

Motion--carried

Brewer move to receive and file. Motion carried 5 to 0, (Fearey absent).

## PROP. ACQUIS.

### PARTIAL ACQUISITION OF 934 EAST 13TH STREET NORTH FOR THE 13TH STREET AND MOSLEY INTERSECTION IMPROVEMENT PROJECT. (DISTRICT VI)

Agenda Report No. 07-0345

On October 18, 2005, City Council approved a project to improve the intersection of Mosley and 13th Street North. The project will provide left turn lanes on 13th Street at Mosley. The traffic signals will be upgraded to provide left turn signal phases at all four approaches to the intersection. To accommodate the project, right-of-way must be acquired from ten tracts of land. On April 3, 2007, City Council approved to proceed acquisition on the remaining three parcels through eminent domain while continuing negotiations.

The 934 East 13th Street North acquisition requires a corner taking, consisting of 113 square feet, from a vacant portion of the parcel. A temporary easement is also required along the south boundary line. The property is improved with an office building. The improvements will not be impacted as a result of the project. The proposed acquisition was appraised at \$350. The land itself was appraised at \$255, or \$2.25 per square foot. The owner rejected the offer and has agreed to sell the take for \$1,000, or \$8.85 per square foot. Though this is a high value on a per square foot basis, it is considered amicable when considering the cost of eminent domain.

A budget of \$1,500.00 is requested. This includes \$1,000.00 for the acquisition, \$500.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

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

The Law Department has approved the agreement as to form.

Motion--  
--carried

Brewer moved that the agreement be approved and the necessary signatures authorized. Motion carried 5 to 0, (Fearey absent).

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(Item 11)

## **OUTDOOR ADVERT. OUTDOOR ADVERTISING LEASE-8006 EAST KELLOGG. (DISTRICT II)**

Agenda Report No. 07-0346

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

A 25-foot by 30.3-foot site for the advertising structure has been delineated at the north edge of the parcel 20 feet east of Rock Road right of way. Permits have been granted for a 24-foot wide by 12-foot tall sign face at this location. The structure will be orientated towards Rock Road. The outdoor advertising company will enter into a lease for this site with the City. The lease has a term of 30 years and calls for rent of \$3,200 per year or 10% of gross advertising sales revenue whichever is greater.

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

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

The Law Department has approved the lease as to form.

- Council Member Gray Council Member Gray stated this is the item that pertains to a billboard sign and a lease from the City at the corner of Kellogg and Rock Road and as he looks at the terms of this lease, he does not think that they are monetarily beneficial to the City. Stated the base lease rate is considerable low for the annual rate of \$3,200.00 on a base year or 10% of the gross sales. Stated he thinks that is actually lower then market and this is the busiest intersection in the City of Wichita. Stated he feels it can justify considerably higher lease rates and the term is for 30 years but does not see where there is an accelerator or an appreciation increase on an annual or decade basis of that 30 year term until you get to the three five year options on the back end of that and then there is only a 10% increase for each one of those terms. Stated if we are going to do a 30 year term we should see at least a 10% increase each 10 years of that 30 year lease.
- John Philbrick Real Estate Administrator explained while there are no significant increases in the base rent, the 10% of gross revenues is expected to grow the rents as the revenues grow and that is one of the reasons there is no set growth throughout the term. Stated the rent rate itself is predicated on the size of the sign and this is a below average billboard sign, a 12X24, which is considerably smaller then their standard sign and that is one of the reasons that base rent was set lower.
- Council Member Gray Council Member Gray stated that is the largest anyone can build a sign going forward in the future now.
- John Philbrick Real Estate Administrator stated this has been in negotiations for 6 to 7 months and they could go back and ask them to provide some comparables for the Council on rents. Stated they looked at what other signs are leasing for and this appeared to be comparable for this type of sign and with that 10% of growth revenues, if the sign is a real revenue producer for the sign company, they will participate in that upside. Stated they can ask them to get some more information.
- Council Member Gray Council Member Gray stated he feels that this is considerably too low and he knows that they have negotiated with other people for other parcels for property equal to or greater then this on an annual lease rate a couple of years back that did not have the volume of that intersection. Stated irregardless' to the size of the billboard, the City Council changed the ordinances in regards to billboard signs over a year ago that dictated that unless it is on a highway and thinks we can get a better deal.

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Council Member Schlapp Council Member Schlapp stated they were granted to have the opportunity to have this sign and then they had to not have it because of the construction but this situation was resolved awhile ago and they have been working very hard to make sure that they could get it. Stated their income has been reduced because they have not been able to have anything at this point. Stated there is more to this issue and this is not something that was done in the last couple of months and has been an ongoing situation for quite some time.

Council Member Gray Council Member Gray stated he still feels that the terms are not favorable to us.

Council Member Schlapp Council Member Schlapp stated when we make a deal we should probably stick to it, which is a concern that she has. Stated we made a deal with these people and hates to come back and say we are going to change it on you now.

Motion--carried Gray moved to defer the item. Motion carried 4 to 1, (Schlapp-no and Fearey absent).

## **BOARDS/COMMISS. BOARDS AND COMMISSIONS MINUTES.**

District II Advisory Board Minutes, March 5, 2007  
District VI Advisory Board Minutes, March 5, 2007  
District IV advisory Board Minutes, February 7, 2007  
Board of Code Standards and Appeals, March 5, 2007  
Wichita Airport Advisory Board, March 5, 2007  
Wichita Public Library, March 20, 2007

Motion--carried Brewer moved to receive and file. Motion carried 5 to 0, (Fearey absent).

## **OFFICE SUPPLY OFFICE SUPPLY CONTRACT.**

Agenda Report No. 07-0347

The Stationary Stores Division of the Finance Department coordinates the office supply purchase and distribution to all City departments. The City last bid the contract for office supplies and forms management three years ago. Staff prepared a request for proposal and four vendors responded. Office Depot has offered the best and lowest cost proposal, offering nation wide contract US Communities pricing. The contract includes approximately five hundred core items discounted up to 85% off of the manufacturer's list price.

A selection committee reviewed and evaluated the proposals on criteria including price and experience. The committee recommended Office Depot as the firm to provide these services at the lowest cost to the City. Office Depot will provide guaranteed next day delivery (except special orders) to every department and outlying facilities, provide a computerized monthly billing to interface with Performance (the City's financial system) and offers on-line internet ordering customized for the City.

The contract will not obligate the City to any specific purchase or volume of purchases; it only provides departments the ability to purchase supplies at the lowest net cost. Funding for office supplies is included within departmental operating budgets.

The contract aligns to the Internal Perspective. Centralizing the purchase of supplies through a single vendor helps to reduce/avoid costs, but providing a lower overall price for supplies and facilitating delivery of supplies to various City facilities.

All purchases over \$25,000.00 require City Council approval.

Motion--  
--carried Brewer moved that the selection of Office Depot offering the US Communities contract be approved and the Mayor authorized to sign any necessary documents. Motion carried 5 to 0, (Fearey absent).

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**EMINENT DOMAIN ACQUISITION BY EMINENT DOMAIN OF LAND REQUIRED FOR THE MACARTHUR, MERIDIAN TO SENECA IMPROVEMENT PROJECT. (DISTRICT IV)**

Agenda Report No. 07-0348

On February 7, 2006, City Council approved the reconstruction of MacArthur to provide four lanes, with left turn lanes and landscaped medians. The intersection of MacArthur and Meridian will be signaled and storm water sewer will be built. There are sixteen parcels that are affected by the project. All of the acquisitions involve partial, strip takings along the existing roadway. No improvements are impacted by the proposed project.

The City requires a 10 foot strip of land as road right-of-way from the properties located at 4001 S. Seneca and 1525 W. MacArthur. These properties are adjacent to one another and are in one ownership. Both properties combined consist of 110 acres and are mostly vacant. 4001 S. Seneca is improved with a fuel and convenience store. 1525 W. MacArthur is improved with a bar/club. They are zoned Single Family-5 and that part designated as the fuel and convenience store site, is zoned Limited Commercial. All improvements are removed from the proposed acquisition area and are not impacted by the project. The proposed right-of-way consists of 29,437 square feet. The owner has declined the appraised offer of 16,155, \$.55 per square foot. A counter offer has never been provided. Staff will continue to negotiate with the owner, but due to the lack of a counter offer, it is necessary to initiate eminent domain.

The cost of this acquisition will be paid for by the City at large.

The acquisition of these parcels is necessary to ensure efficient infrastructure.

The Law Department has approved the resolution and ordinance as to form.

Motion--

Brewer moved that the resolution be adopted and the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition be placed on first reading. Motion carried 5 to 0, (Fearey absent).

--carried

## RESOLUTION NO. 07-248

A Resolution declaring the necessity for acquiring private property for the use of the City of Wichita in connection with the planned MacArthur Road Improvement Project between Seneca and Meridian, presented. Brewer moved that the Resolution be adopted. Motion carried 5 to 0. Yeas: Longwell, Gray, Schlapp, Skelton, and Brewer (Fearey absent).

## ORDINANCE

An ordinance providing for the acquisition by eminent domain of certain private property and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of the planned MacArthur road improvement project between Seneca and meridian in the City of Wichita, Sedgwick County, Kansas; designating the land required for such purposes and directing the city attorney to file a petition in the district court of Sedgwick County, Kansas, for acquisition of the land therein taken and providing for payment of the cost thereof, introduced and under the rules laid over.

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## KS. FOODBANK

### KANSAS FOODBANK WAREHOUSE EDI-SIGNATORY AUTHORITY. (DISTRICT I)

Agenda Report No. 07-0349

On February 13, 2007 the City Council approved the application for the Economic Development Initiative (EDI) special project grant that will provide funds to the Kansas Foodbank Warehouse located in Wichita, Kansas. The project is administered by the U.S. Department of Housing and Urban Development (HUD).

The EDI funds will assist the Kansas Foodbank Warehouse with construction costs incurred from building a new central distribution facility located at 1919 E. Douglas.

The EDI grant will provide \$297,000 to the Kansas Foodbank Warehouse.

The Kansas Foodbank Warehouse provides emergency food assistance to a network of organizations that serve thousands of needy families. This service impacts the City's Core Area and Vibrant Neighborhoods goal, by increasing the sense of community, neighborhood involvement, and satisfaction.

The Congressional Record lists the City of Wichita as the recipient for the grant, which requires signatures by the City's authorized representative on the grant agreement. The EDI Grant Agreement requires a Sub-Grant Agreement between the City and the sub-grantee, Kansas Foodbank Warehouse, Inc.

Motion--  
--carried

Brewer moved that the signatures for the Kansas Food Bank EDI Grant Agreement and the Sub-Grant Agreement be approved. Motion carried 5 to 0, (Fearey absent).

## BEVERAGE CONT.

### BEVERAGE SERVICE CONTRACT AMENDMENT AND EXTENSION.

Agenda Report No. 07-0350

The City of Wichita's Department of Park and Recreation has enjoyed the benefits of the marketing and sponsorship partnership with Pepsi-Cola over the several years. In addition to providing a wide range of beverage services at various parks, recreation locations and special events, the company has provided additional funding to sponsor other activities as well.

The current beverage service contract includes vending machine sales and fountain drink sales at Parks and Recreation municipal swimming pools, neighborhood recreation centers, Ralph Wulz Riverside Tennis Center, Watson Park, and various other athletic fields, and special events sponsored by the City of Wichita Department of Park and Recreation. Additionally, Pepsi's value-added partnership agreement included equipment support, marketing programs, youth sports sponsorship and staff development training.

The Park and Recreation Department and Pepsi-Cola desire to extend the term of the Beverage Service Contract Agreement for (90) ninety days. The basic terms of the service contract will remain the same for the ninety-day extension period as agreed in the attached amended agreement.

The City of Wichita's Department of Park and Recreation staff is conducting research on expanding the drink selection choices for our customers by adding fruit and health drink choices that vendors can provide and address the on-going concerns of healthier drink choices. In addition to the research being performed, staff has recognized the decrease in revenues being generated from this service and is looking for alternative products that could increase funding that continues to supplement resources for recreation services, sporting and special events, special equipment needs and staff conferences/training. The 90-day extension requested will be ample time to complete the Request For Proposal (RFP) and award a service agreement that would better benefit the beverage contractor and the City of Wichita.

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Revenue sale compensation will be in the agreed terms as that provided in the revised terms of the Beverage Service Agreement.

This Extension will enhance Quality of Life by ensuring that citizens receive a positive return on all their Quality of Life Investments.

The City Attorney has approved the amendment and extension of the Beverage Service Agreement as to form.

Motion--  
--carried

Brewer moved that the amendment and extension of the Beverage Service Agreement be approved and the necessary signatures authorized. Motion carried 5 to 0.

## ORDINANCES

### SECOND READING ORDINANCES: (APRIL 10, 2007)

a. Nuisance Abatement Assessments.

ORDINANCE NO. 47-458

An ordinance making a special assessment to pay for the cost of cutting weeds in the city of Wichita, Kansas, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 5 to 0. Yeas: Gray, Longwell, Schlapp, Skelton, and Brewer. (Fearey absent)

ORDINANCE NO. 47-459

An ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of section 7.40.050 of the code of the city of Wichita, Kansas, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 5 to 0. Yeas: Gray, Longwell, Schlapp, Skelton, and Brewer. (Fearey absent)

b. DR2005-21-Zone Change from "SF-5" Single-Family and "LI" Limited Industrial to "AFB" Air Force Base. Generally located at the northeast corner of 31st Street South and George Washington Boulevard. (District III)

ORDINANCE NO. 47-460

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 5 to 0. Yeas: Gray, Longwell, Schlapp, Skelton, and Brewer. (Fearey absent)

c. A07-05R-Request by Justin and Carolyn Radford to annex land generally located southeast of the intersection of 21st Street North and 135th Street West. (District V)

ORDINANCE NO. 47-461

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A07-05), read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 5 to 0. Yeas: Brewer, Gray, Longwell, Schlapp, Skelton, and Brewer. (Fearey absent)

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- d. A07-06R-Request by Steve Miller of JBC Investment Inc. to annex land generally located northeast of the intersection of Harry Street and 127th Street East. (District II)

ORDINANCE NO. 47-462

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A07-06), read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 5 to 0. Yeas: Gray, Longwell, Schlapp, Skelton, and Brewer. (Fearey absent)

## UNFINISHED BUSINESS

UNSAFE STRUC.

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES, 814 WEST CLARK AND 1021 NORTH SPRUCE. (DISTRICTS I AND III)  
(DEFERRED APRIL 10, 2007)

Kurt Schroeder

Office of Central Inspection reviewed 814 West Clark.

Agenda Report No. 07-0351

These properties were before the Board of Code Standards and Appeals (BCSA) on February 5, 2007. No-one appeared to represent the properties, repairs had not been made to the properties, and the BCSA recommended ten (10) days to start and an additional ten (10) days to complete demolition .

These cases were before the City Council on April 10, 2007. Council voted to defer the hearing on these two (2) properties until April 17, 2007.

Staff has had contact with owners of both properties, and both agreed to the one week deferral.

Taxes: As of April 11, 2007, the 2006 taxes were delinquent for 814 West Clark in the amount of \$427.11, there are no special assessments. The 2006 taxes are due for 1021 North Spruce in the amount of 717.83 which does not include special assessments for weed mowing and lot cleanup in the amount of \$1,302.70.

The owners of both properties have been informed of the date and time of the hearing.

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, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area and Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Timothy Carver

Mr. Carver, property owner, stated he has a schedule on putting in the windows and in two weeks will have the sheathing on and if he can get 30 days he will guarantee that gets done.

Council Member Skelton

Council Member Skelton asked what the interior looked like and his plans for utilizing this structure for occupancy.

Timothy Carver

Mr. Carver stated the interior is bad and that it will be occupied by one of his family members but does not know when that will be.

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Council Member Skelton Council Member Skelton stated on August 7<sup>th</sup> you were allowed 30 days to complete the repairs by the Board of Codes Standards and Appeals; on November 6<sup>th</sup>, you were given an additional 30 days by this Board; on December 4<sup>th</sup>, you were given 60 days; and the following hearing on December 5<sup>th</sup>, you did not show up. Stated the Board of Codes Standard and Appeals is our advisory board to deal with this kind of thing. Stated that he feels that Mr. Carver has had more then adequate opportunity to get this property fixed and knows that the inside of the property is burned out there is nothing that he can see that would be a potential asset to the community and thinks it is a beyond the state of repair.

Motion-- Skelton moved that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) any delinquent taxes and/or specials are paid within fourteen (14) days; (2) the structures are maintained secure as of April 17, 2007 and are kept secured during renovation; and (3) the premises are kept clean and free of debris as of April 17, 2007, and will be so maintained during renovation. Motion --carried carried 5 to 0, (Fearey absent).

Kurt Schroeder Office of Central Inspection reviewed 1021 North Spruce.

Motion-- Brewer moved that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) any delinquent taxes and/or specials are paid within fourteen (14) days; (2) the structures are maintained secure as of April 17, 2007 and are kept secured during renovation; and (3) the premises are kept clean and free of debris as of April 17, 2007, and will be so maintained during renovation. Motion --carried carried 5 to 0, (Fearey absent).

## NEW BUSINESS

### NRA PLAN NEIGHBORHOOD REVITALIZATION AREAS AND LOCAL INVESTMENT AREAS. (DISTRICTS I, III, IV, AND VI)

Mary K. Vaughn Director of Housing and Community Services reviewed the item.

Agenda Report No. 07-0352

On November 14, 2006 the City council approved the recommended boundaries for the Neighborhood Revitalization Areas and the Local Investment Areas and authorized staff to develop the required Neighborhood Revitalization Plan.

The Neighborhood Revitalization Plan addresses the legal requirements for implementation of the State Neighborhood Revitalization Act and the HUD Neighborhood Revitalization Strategy Areas. The Neighborhood Revitalization Plan utilizes authority that cities in Kansas have under State law to provide tax rebates to property owners in designated Neighborhood Revitalization Areas as an incentive for improving private property. The Plan also focuses Community Development Block Grant (CDBG) and HOME funding in Local Investment Areas to provide a significant visual impact on specific areas and provide an incentive for private investment.

The Neighborhood Revitalization Plan documents the policy and procedure for the Kansas Tax Rebate program that provides incentives for rehabilitation and new construction projects located in the NRA boundaries. Since 1999 approximately \$400,000 has been rebated back to property owners for projects located in the NRA.

The Neighborhood Revitalization Plan addresses the indicators for the Support Dynamic Core Area and

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The ordinance and interlocal agreement was drafted by the Department of Housing and Community Services and approved by the Law Department. The ordinance implements the Neighborhood Revitalization Plan in accordance with the requirements of K.S.A. 12-17, 114 et seq. The interlocal agreement allows Unified School District 259 and the Board of County Commissioners of Sedgwick County and the City to jointly approve of the implementation of the Kansas Tax Rebate Program as a economic development incentive. The HUD requirements for the strategic plan described within the Neighborhood Revitalization Plan was developed according to 24 CFR 91.215 and HUD Notice CPD96-01.

Motion--

Skelton moved that the public hearing be closed; receive any written comments, and: (1) approve the Neighborhood Revitalization Plan as a substantial amendment to the 2004-2008 City of Wichita Consolidated Plan and place the ordinance on first reading; (2) request the support and participation from Sedgwick County and Unified School District #259 and authorize the Interlocal Agreements necessary to implement the Kansas Tax Rebate Program and; (3) authorize necessary signatures.

--carried

Motion carried 5 to 0, (Fearey absent).

## ORDINANCE

An Ordinance of the City of Wichita, Kansas to adopt a neighborhood revitalization plan and designate the areas within the city of Wichita, Kansas, to be included within such plan, and to authorize and approve a certain interlocal agreement by and among the City of Wichita, Kansas, the board of County Commissioners of Sedgwick County, Kansas and Unified School District No.259, Sedgwick County, Kansas, pertaining to administration of the neighborhood revitalization plan and the issuance of tax rebates thereunder, under the rules laid over.

## COMPLIANCE RPT.

### COMPREHENSIVE COMPLIANCE REPORT.

Lisa Totten

Industrial Analyst reviewed the item.

Agenda Report No. 07-0353

The City of Wichita provides various financial incentives to attract and encourage business expansions. These include Industrial Revenue Bond (IRB) financing, Economic Development Tax Exemptions (EDX), CDBG loans and grants, and HOME funding. Monitoring is performed to ensure compliance with conditions associated with issuance of revenue bonds, tax exemption approval, CDBG funding, and HOME funding. The Comprehensive Compliance Report provides an analysis of the current status of compliance relative to participating businesses and agencies for the years 1996 through 2006.

The Comprehensive Compliance Report reflects specific compliance conditions and current status of projects receiving City assistance through IRB, EDX, CDBG and HOME programs. During 2006, ten IRBs were issued, eight EDX approvals, 175 CDBG contracts were awarded, and no new HOME-funded multi-family projects were completed.

As a requirement of the City's Economic Development Incentive Policy, there are a number of conditions that must be met before City Council approval. Compliance criteria for IRB and EDX include advertising for minority contractors, submittal of water conservation measures and an environmental assessment, and having site plans reviewed by a design council if building construction is involved. There are also a number of compliance conditions that are required on an ongoing basis such as submittal of an Equal Employment Opportunity/Affirmation Action Plan, paying an annual administrative service fee, job creation, and capital investment. For example, in 2006, all IRB and EDX companies are in compliance with the requirement to have an EEO/AA plan on file. 100 percent of all companies are in compliance with the IRB administrative fee requirement. As a result of the IRB and EDX projects that were approved in 2006, 237 new jobs will be created within 5 years and Wichita businesses report a capital investment of over \$412.7 million. This compares to 1022 jobs created and \$231.3 capital investment in 2005. (InfoNXX created 944 jobs that year).

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In order for projects to be approved for CDBG funding, the project must benefit low or moderate-income persons, or eliminate slum or blighting condition. The 2006 Comprehensive Compliance Report reflects 175 CDBG contracts were awarded with a total value of \$3.5 million. The percentage of minority contractor participation is 42%.

Developer/Project owners requesting HOME funding for residential apartment projects must contractually agree to maintain a certain number of affordable apartment units for income-qualified individuals/families. These units must be offered at rents that comply with HOME program regulations for a predetermined period of time (affordability period), which is based on the amount of HOME funds invested and project type. In addition, apartment units must be maintained in compliance with local housing standards during the affordability period. The Comprehensive Compliance Report reflects nine HOME funded projects valued at \$3.4 million, since 1994. There were no new HOME-funded multi-family projects completed during 2006. All projects are in compliance with affordability requirements.

Conditions of compliance are monitored regularly by City associates through annual on-site monitoring visits, contractor and subcontractor interviews, required annual monitoring surveys, annual recertification's, review of certain contractor and subcontractor payrolls, and review of required submittals. Businesses and agencies not in compliance are notified and required to work with City associates for the purpose of full compliance with all conditions.

There are no financial considerations.

Economic Vitality and Affordable Living. Providing low-cost financing will encourage businesses to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

There are no legal considerations.

Mayor Brewer

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

Motion--  
--carried

Brewer moved that the Comprehensive Compliance Report be received and filed. Motion carried 5 to 0, (Fearey absent).

**29<sup>TH</sup> STREET N.**

**29TH STREET NORTH IMPROVEMENT BETWEEN 119TH STREET WEST AND MAIZE, (DISTRICT V)**

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 07-0354

On March 8, 2005, the City Council approved a project to improve 29th St. North, between 119th St. West and Maize. A substantial amount of right-of-way has been acquired for the project. As a result, additional City funding is needed. An amending Ordinance has been prepared to revise the project budget.

This project will reconstruct 29th St. North to provide four through lanes and a median for left turn lanes. A new storm water sewer will be constructed, as well as sidewalk on both sides of 29th.

The current budget is \$3,500,000, with \$850,000 paid by the City and \$2,650,000 by Federal Grants administered by the Kansas Department of Transportation (KDOT). The funding source for the City share is General Obligation Bonds. The proposed revised budget is \$5,441,000, with \$2,291,000 paid by the City (\$2,200,000 GO/\$91,000 SA) and \$3,150,000 paid by Federal Grants. In addition to the higher than expected right-of-way cost, additional City Funding is needed because KDOT is not participating in a large part of the cost of storm sewer construction. The increased City funding will need to be programmed in the Capital Improvement Program, thus possibly impacting future project scheduling.

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

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

Council Member Skelton Council Member Skelton stated that KDOT came back and said that they do not want any part of the drainage part of this and then that is why the reason we have to go up \$1.44 million on this.

Jim Armour City Engineer explained they indicated that they will not participate in all of the costs of the storm sewer, which was about a \$400,000.00 hit and there was about \$700,000.00 in right-of-way, with about a 20% increase in project costs over the last two years that accounts for about another \$700,000.00.

Council Member Skelton Council Member Skelton stated when we talk about the CIP and impacting future project scheduling, there is a lot of ground left to develop over there for a residential neighborhood and in theory shouldn't the property taxes generated in those areas compensate us some?

Jim Armour City Engineer stated that he is sure they will along with \$91,000.00 that will be specially assessed to the development for their portion of the turn lanes.

Council Member Skelton Council Member Skelton stated over the past many months the Council has had to increase budgets for projects and we have our CIP coming up. Stated we having been having to deal with increases in costs on projects and his concern are what will be left at the end of the day when we get our new CIP. Stated part of his frustration is the condition of George Washington Boulevard, which is in terrible condition and was suppose to be built in 2006 and 2008 but is now pushed off until 2010 and 2012. Stated he does not feel that the citizens need to wait that long. Stated the Council is going to have to sit down and prioritize this because his district does not have any railroad overpasses and knows that the City is going to end up having to contribute some funding there in the long run.

Council Member Longwell Council Member Longwell stated technically over time, some of this money will come from the increase in assessed valuation and the district that he has served for many years enjoyed a dramatic increase in assessed valuation, which ultimately comes back to the general fund. Stated that northwest quadrant is a fast growing area of our City and we track that every year as part of that school district and there are eight new housing developments just in that northwest quadrant. Stated there are some real concerns to keep up with growth and knows that we do not appreciate the increase in cost, which will be tough for everyone to accept but his concern is to simply keep up with the tremendous growth out in there and is supportive of this.

Mayor Brewer Mayor Brewer inquired whether anyone from the audience wished to be heard.

Cybil Strum Ms. Strum stated she is concerned that every time a road is being built, it does not get done before another one is started.

Motion-- Longwell moved that the revised budget be approved; the amending Ordinance placed on First Reading and the signing of State/Federal agreements as required authorized. Motion carried 5 to 0, (Fearey absent).  
--carried

## ORDINANCE NO.

An ordinance amending Ordinance No. 46-557 of the City of Wichita, Kansas declaring 29<sup>th</sup> Street North, between 119th St. West and Maize (472-84185) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

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## LIQUOR SALES

### SUNDAY LIQUOR SALES.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 07-0362

In 2005, the Kansas Legislature enacted a law giving local cities and counties the option to allow the sale of cereal malt beverage (beer) or alcoholic liquor at retail on Sundays. (The law applied to sales at retail in the original packages and does not affect the sale by the drink or consumption on the premises.) Sunday sales may be authorized in Wichita in one of two ways: The adoption of an ordinance by the City Council or the submission of a petition by voters calling for a special election. The City Council cannot submit the question to an election on its own motion, but if the City Council adopts an ordinance authorizing Sunday sales, it would be submitted to a referendum vote if required by a sufficient number of petitions.

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

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

The Sunday sales ordinance will go into effect on the 61st day after passage and two publications, unless there is a petition submitted asking for a referendum on the ordinance. If, within 60 days of publication, a petition is signed by a number of voters not less than 5% of those voting for President in 2004, the City Council shall call a special election to submit the question of Sunday sales to the voters.

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

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

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

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

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- Council Member Skelton Council Member Skelton asked what action the Council could take to avoid the cost of a special election if they did not adopt the ordinance today.
- Gary Rebenstorf Director of Law explained that if the process is started beyond the window that he explained for the County election on gaming, then the City would have to pay for a special election and the Election Commissioner advises them that the cost of that would be between \$90,000.00 and \$95,000.00. Stated if there were to be an election separate or the timing did not work out separate from the County-wide election of gaming, then if there is a sufficient petition the City would then be required to have special election and pay that cost. Stated if the Council does not adopt this ordinance today, the Council still has the opportunity within this window to adopt an ordinance and have it put on the necessary readings and laid over for the protest petition to be filed to meet the election that the County has on August 7<sup>th</sup>. Stated there still is an opportunity up to April 25<sup>th</sup>, where the Council could either have a special meeting of the Council to do that or the Council has in their rules a provision that if the Council would like to declare an emergency, then the ordinance can be adopted on one reading and therefore would not have to have two readings of the ordinance and adopt it on the first reading, which would need to be done in the time frame of today and April 25<sup>th</sup>. Stated per the State Statute there are only two ways that this matter could come up, one is the Council would adopt an ordinance with the petition process coming along or if there is a petition process initiated by someone, then that would trigger an election also.
- Council Member Schlapp Council Member Schlapp asked if this were to be voted on today and would not have five votes and fail, how it would be brought back.
- Gary Rebenstorf Director of Law explained that the Council can always put an item back on the agenda for next week or it could be put on a special meeting agenda. Stated the Council always has that opportunity if an item fails on a given Council Meeting, then that item can be brought back as a new item on the next agenda.
- Mayor Brewer Mayor Brewer inquired whether anyone wished to be heard.
- Garry Wingert Mr. Wingert stated he is the President of Kansas for Addition Prevention and has worked two to three years ago to prevent this difficult situation. Stated we have the unfortunate circumstance of living next to Missouri and this law came about in 2005 because the liquor dealers in Kansas City, Kansas were having to compete with Sunday sales in Missouri and they did not like that. Stated they lobbied and got the law and went to court and said that we did not have uniformed laws in the State of Kansas and they wanted laws to be uniformed and wanted Sunday sales and those of us that opposed Sunday sales, had a choice to either go with the uniformed laws or Sundays sales and we caved in and now the Council is at this situation. Stated that the economics of this situation are not always clear to the public and according to the most recent federal report, the economic impact of alcohol costs each person in Kansas \$654.00 per year due to the negative drain that alcohol has on the economy. Stated he received a phone call from a liquor store owner asking for him to assist with helping to prevent Sunday liquor sales. Stated that there has been talk about a casino and the estimates that he has read is that if there is a destination casino in Wichita, there will be between 60,000 and 73,000 individuals will be harmed and either becomes addicts themselves to gambling or their families will be destroyed. Stated 37% of us in America totally abstain from alcohol. Stated you have to deal as a City Council with the issue of enforcement as you expand the opportunity for laws to be broken, you will need to add dollars into your budget to add police force to enforce Sunday sales and it is expensive and we do not want it.
- Tom Jacob Mr. Jacob stated his family has two liquor stores in the City of Wichita. Stated that Thanksgiving and Christmas are still excluded from the Kansas law and disagrees with the City Attorney about in the research that he did, there was only a petition against the sales and there was no petition to opt into the sales as far as the public was concerned. Stated the reason this ordinance was passed in the State was because of Wyandotte and Johnson counties and they were losing a lot of sales over the years to the Missouri side. Stated Wyandotte County and some of the cities in Johnson County opted out of the State of Kansas liquor laws, which then gave them the opportunity to set up whatever they wanted to as far as sales times, days, and regulation of who was eligible to buy it and what time the stores could be open and the State saw that this could cause a lot of problems and they went ahead to try and make the laws uniformed throughout the State and that is why they passed the state law like they did. Stated we do have Sunday sales in the Wichita area, which is from three to 15 minutes depending on where you

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live to get to any liquor store and when Andover passes it we will have it in Butler County, which means more money going out of the City and more retailers becoming impacted by this. Stated he does not think that the retailers in Wichita wanted this to happen in the beginning but thinks that it is eventually going to happen. Stated it is here and is going to stay here and is not going to impact the people who are looking to purchase alcoholic beverages on Sunday, they are having other options and they are using them and the City is losing money. Stated Sunday sales is all around us and to say that we should not have it here is not fair to the retailers who do want it and the retailers who do not want it are not required to open. Stated they have restricted hours listed on Sundays, which are from noon to 8:00 p.m. Asked the Council to give them an opportunity to run their businesses and be competitive and level the playing field that is now surrounding the City of Wichita.

- Kim Page Ms. Page stated she is a liquor store owner, which is located in Park City's backyard and would like to open on Sundays. Stated this issue is not going away and this is progress and we should open on Sundays and move on. Stated it makes good sense.
- Cybil Strum Ms. Strum stated she is against this issue and asked the Council not to allow it.
- Unidentified Stated he is opposed to being open on Sundays and is a liquor store owner at the corner of Maple and Tyler. Stated one of the reasons that this should not even be under consideration is because we are dealing with a substance that the Council has not had formal training on yet. Stated he thinks the people who want liquor sales on Sunday, should have to come to the Council and request this. Stated they are putting the burden on the Council to make a decision on this issue and then revert to the people that do not want it to appeal against it. Stated he feels this is "putting the cart before the horse" and feels that the people that want this should have to come to the Council with a petition saying that they want it instead of the Council having to allow it. Stated he does not think there is that much money in revenue going out of the City of Wichita because the taxes he collects go to the State and is in the form of an enforcement tax. Stated alcohol is a substance that even the federal government has created an agency to govern what goes on. Stated he feels Sunday sales is inevitable deal but does not want it any sooner than it has to be.
- John Davis Mr. Davis stated he is a liquor store owner in Wichita and his family owns three in Wichita and one in Sedgwick County. Stated one of his request would be that the Council take into consideration that there are a dozen stores in Sedgwick County outside of any City that are in an unincorporated area and would not be fair to them if the City of Wichita passed this without at least trying to bring along the Sedgwick County Commissioners. Stated he is against this.
- Jim Burgardt Mr. Burgardt stated he is a liquor store owner at 3027 East Pawnee and has been in this business for over 30 years and is personally not in favor of Sunday sales but he and his fellow retailers feel that this is inevitable. Asked for discussion about the economic and impact on retailers large and small and thinks some compromises could be made to benefit the City and the retailers. Stated there could possibly be an ordinance that would reduce the hours during the week and trade them for hours on Sunday. Stated this is done in Great Bend, Emporia and other cities across the State. Stated this would possible help the burden and not affect so many of the retailers economically. Stated he they are already open 84 hours a week and some changing of the hours could be a possibility.
- Louis Manns Mr. Manns stated he owns a liquor store in the South City area and does not want Sunday liquor sales because he does not want to work on Sundays. Stated he is a smaller store and thinks that the larger stores could absorb the payroll that will be required to open on Sundays better than a smaller store. Stated he feels he will have to be open and thinks the idea of trading six hours during a week for six hours on Sunday is a great idea. Stated he would like some discussions from the liquor owners' side to be done.

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- Jeff Grow Mr. Grow stated he own R and J Liquor Store on East Douglas and also supports Mr. Bernard's recommendation. Stated Sunday sales are probably inevitable but think there is a misunderstanding of the Council that is a panacea. Stated the owners in the areas surrounding Wichita are for it because they could get some business that they were not getting now from our population. Stated the minute you open up Wichita, some of those folks will close on Sundays because of lack of sales. Stated it is a finite amount of money that is spent on that type of product. Stated he wanted to make sure that the Council has all of the information available to them but does not feel that they have. Stated most liquor store owners are not in favor of Sunday sales but do see it as inevitable.
- Council Member Schlapp Council Member Schlapp stated that she feels that a lot of the Council would like to see a vote and thinks that is where this process is heading. Stated that vote as long as there is enough interest in the petition, will happen. Stated she thinks the vote is probably a good thing if it were to come about.
- Mayor Brewer Mayor Brewer stated that Council Member Fearey is out of state right now and will not be back until this coming weekend and asked about a possible deferral until she is back so that she can give her input.
- Council Member Gray Council Member Gray stated that is probably the best course of action and it takes five people to vote for it and there are only five people here today and thinks we should at least have as many Council Members present as possible to make a decision like this.
- Motion-- Gray moved to defer this item until the April 24<sup>th</sup> Council Meeting and though that meeting is typically a consent agenda meeting only, that we make it a full active Council Meeting to hear this item and to be able to get public comment at the same time. Motion carried 5 to 0, (Fearey absent).
- carried

## PLANNING AGENDA

(Council Member Gray momentarily absent)

- George Kolb City Manager stated there is one item that needs to be corrected, which is number 23 and the motion needs to be corrected.
- Mayor Brewer Mayor Brewer requested to pull item 22 for discussion.
- Motion--carried Brewer moved to approve Planning consent items 24-27. Motion carried 5 to 0, (Fearey absent).

**(Item 22)**  
**CUP2007-00007**

**CUP2007-00007 AND ZON2007-00004 DP-8 UNIVERSITY GARDENS COMMUNITY UNIT PLAN-AMENDMENT #11 TO ALTER ALLOWED USES, MAXIMUM BUILDING COVERAGE, GROSS FLOOR AREA, THE NUMBER OF BUILDINGS ALLOWED AND ZONE CHANGE TO LC LIMITED COMMERCIAL ON PARCEL 9. (DISTRICT I)**

Agenda Report No. 07-0355

MAPC Recommendations: Approve (12-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Approve rezone (7-0); Recommend meeting with the Northeast Heights and Crestview Heights Neighborhood Associations in regards to proposed uses.

The applicant is requesting to rezone a 1.8 acre tract from "SF-5" Single-family Residential to "LC" Limited Commercial and to amend DP-9 University Gardens Community Unit Plan. The amendment would change the provisions for maximum building height, maximum land coverage, maximum gross floor area, floor area ratio, proposed general uses and the maximum number of buildings allowed on Parcel 9, located on the northeast corner of 21st Street North and Oliver Avenue.

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The subject property is an isolated strip of SF-5 land located between Oliver and other land within the parcel that is already zoned LC. Prior to the current code's landscaping and buffering requirements, it was a common practice to leave a narrow strip of land zoned SF-5 adjacent to LC zoned land to provide a buffer between the applicant's property and adjacent property. The practice left an owner with a split-zoned tract. With the adoption of landscaping and supplemental development requirements, split zoning is not used much anymore.

The applicant proposes to change the maximum building height from 30 feet to 45 feet, the maximum land coverage from 3,000 square feet to 15,000 square feet, maximum gross floor area from 6,000 square feet to 27,000 square feet, floor area ratio from 7.6% to 35% and the maximum number of buildings allowed from 1 to 3 buildings. The applicant also proposes to add the following uses to the General Uses: Office, General; Bank or Financial Institution, Retail, General; Restaurant, Convenience Store, Printing and Copying, Limited; College and University and a Vocational School.

The restaurant use, including fast food restaurants with a drive-thru, and convenience store, would be limited to access on 21st Street North only and would require increased screening and landscaping along North Oliver Avenue.

The surrounding area to the south and west includes a golf course, church and single-family residences on property zoned SF-5. The area to the south and east includes offices, a fast food restaurant and strip store on property zoned LC. The property to the north and east includes storage units, a retail store on property zoned LC and vacant SF-5 zoned property.

New buildings would have uniform architectural compatibility to the new development occurring directly to the east of the subject site, Parcel 10, in terms of character, color, texture and materials, and exterior walls facing residential would not be metal siding. The parcel would share a similar landscape palette as the development just east of the subject site. A site plan would be required to assure internal cross lot circulation, joint access and smooth traffic flow.

District Advisory Board I was initially scheduled to hear this request on March 7, 2007, however the applicant was not present, and the DAB asked for the case to be returned to the April hearing. At the MAPC meeting held March 15, 2007, MAPC voted (12-0) to approve the CUP amendment and zone change. At District Advisory Board I on April 2, 2007, the DAB voted (7-0) to approve the zone change for the property, but the DAB recommended the applicant meet with the Northeast Heights and Crestview Heights Neighborhood Associations in regards to two uses proposed in the CUP amendment (Restaurant and Convenience Store uses). No protests have been received on the rezone.

Promote Economic Vitality.

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

Mayor Brewer

Mayor Brewer stated he has a question regarding the comments from the DAB and asked what they were.

Donna Goltry

MAPD Staff stated the DAB had recommended that the applicant get together to meet with Northeast Heights and Crestview Heights Neighborhood Associations because there was some discussion on the appropriate ranges of uses to add to that single-family strip of land that has been used in the past as a landscape buffer at the corner of 21<sup>st</sup> and Oliver. Stated to her knowledge this did not happen.

Motion--  
--carried

Brewer moved to defer this item until it has been before the Neighborhood Association. Motion carried 4 to 0, (Gray absent, Fearey absent).

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(Item 23)  
PUD2006-03

**PUD2006-03-CREATE PUD#23 FIREPOINT PLANNED UNIT DEVELOPMENT,  
GENERALLY LOCATED NORTH OF K-96 AND WEST OF WEBB ROAD ALONG TOBEN  
STREET NORTH. (DISTRICT II)**

Agenda Report No. 07-0356

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

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve subject to staff recommendation (10-1).

The applicant proposes to create PUD #23 Firepoint Planned Unit Development consisting of eleven parcels, primarily for the purpose of allowing shared signage among the parcels. The property is located along the north side of K-96 and west of Webb Road and is bisected by Toben Street North (formerly named 31st Street North), which curves from Webb Road westward and will extend northward to 34th Street North.

The "PUD" Planned Unit Development special zoning district would replace the current zoning district of "LI" Limited Industrial, but the permitted uses for the PUD would remain those uses permitted by right in the LI district. Parcels range in size from one acre to seven acres. Reserve A is a median strip shown within the existing right-of-way of Toben Street North at its terminus with Webb Road. A vacation request (VAC2006-33) has been filed to vacate the right-of-way to form the reserve.

Maximum building height for buildings is unspecified. However, since the property is near Jabara Airport, building heights will require FAA review. Proposed maximum building coverage would be 30 percent for retail, office or restaurant use and 60 percent for industrial use. The reasoning for a greater percentage building coverage for industrial use is based on the lower employee and general parking ratios necessary with an industrial-type use. Number of buildings per parcel is unspecified. Building setbacks will be 35 feet along Toben Street North, K-96 and 34th Street North and 45 feet (platted) setback for Parcels 7 and 8 on Webb. Other development attributes will be consistency in parking lot and lighting elements, providing a landscaped street yard and parking lot landscaping and screening along K-96, Toben, 34th Street North and Webb Road and pedestrian connectivity between buildings.

The main purpose of the proposed PUD is to allow parcels or lots within the development to share signage without the signage being considered offsite. Per the Wichita Sign Code, onsite signage is limited to advertising for uses located upon a zoning lot, but in a CUP or PUD, advertising for any use within the CUP or PUD is considered onsite by the Sign Code, even though it is placed upon a different parcel (or zoning lot).

The PUD excludes tracts along K-96 developed with the Candlewood Suites hotel, the Johnny Carino's restaurant and the Fritz Co Grille restaurant, all of which have benefited or been affected by administrative adjustments to the Wichita Sign Code. BZA2004-09 granted an onsite sign (35 feet allowable height) or offsite sign (25 feet allowable height) with advertising limited to uses on Lots 6 and 7, Block 3, Mediterranean Plaza Addition, but stipulated that no offsite advertising would be permitted for a use with a separate ground sign (Candlewood met this criterion with its existing pole sign). BZA2006-02 allowed offsite signage for Fritz Co Grille on the portion of Lot 5, Block 3, Mediterranean Plaza Addition that is Parcel 4 of the PUD. BZA2004-20 allowed a taller sign (35 feet) for Ted's Montana Grill on Parcel 8 of the PUD in exchange for giving up one sign location.

In terms of sign spacing, the Sign Code requires a minimum spacing interval of 150 feet apart on a single zoning lot, including a PUD property. This spacing interval is used to calculate the number of allowable sign locations per Code. The minimum spacing can be varied from strict application by reducing it up to 1/3 (per administrative adjustment guidelines of the Sign Code), but varying the spacing is not to be used to add to the maximum number of sign locations based on the 150-foot spacing interval. Also, a sign that is 25 feet in height or less is considered to utilize a single sign location. The Sign Code allows a trade-off of five additional feet in height for a forfeiture of one sign location, up to a maximum height of 35 feet.

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Based on these requirements of the Sign Code, the PUD would be eligible for a total of eight sign locations on K-96; three locations have been utilized today. Webb Road would be allowed a total of four sign locations, including the land within Reserve A. Two locations are utilized today, leaving a potential for two more signs. Also, spacing should be at least 100 feet between signs, which also can be achieved by combining the two sign locations. The number of signs requested and allowed on Webb Road, Toben Street North and 34th Street North are in alignment. The applicant has requested to modify the sign locations shown on the PUD drawing by combining four sign locations into two larger (450 square feet) and taller (45 feet) signs along K-96.

Virtually all of the surrounding land is zoned LI. To the north, northeast and northwest, the development consists of an automobile dealership, a specialty hospital and industrial parkland with manufacturing firms and office/warehouse firms. To the east is Jabara Airport. To the south is K-96. South of K-96 is an office park with a variety of office, medical facilities, industrial, manufacturing and service firms.

At the District II Advisory Board meeting held March 5, 2007, DAB II voted (10-1) to recommend approval of PUD2006-03 as recommended by staff with a modification of the two larger signs being 450 square feet in size and 45 feet in height, although the Board expressed some concerns with the magnitude of these signs.

At the MAPC meeting held March 15, 2007, MAPC voted (12-0) to approve subject to staff recommendation as modified by the DAB recommendation. No protest petitions have been received.

The MAPC recommendation was to APPROVE subject to the following conditions:

1. Add 35-foot building setbacks along K-96 and 34th Street North.
2. Add "leased area" abutting the west property line of Parcel 8 to the PUD for joint signage purposes.
3. Revise General Provision #2 to clarify that site development standards, including but not limited to parking requirements and screening, shall be provided per the Unified Zoning Code as per requirements for the LI zoning district unless otherwise specified by the general provisions of the PUD.
4. Add to General Provision #11 that a landscaped street yard is required along Toben Street North and 34th Street North.
5. Provide revised sign plan, limiting the two larger signs to 450 square feet in size. Incorporate general provision that signs shall conform to the sign plan, shall not be less than 150 feet apart; sign height not to exceed 35 feet except for two signs that may be 45 feet in height, and that any modification of freestanding signage within the PUD or the excluded tracts shall be compensated for by the PUD so as not to result in an overall increase in freestanding signage from that shown on the Sign Plan herein.
6. Delete General Provision #15.
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
9. Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #23) includes special conditions for development on this property.
10. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Promote Economic Vitality and Affordable Living.

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

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Donna Goltry

MAPD Staff stated this is request for the creation of a planned unit development and was recommended for approval subject to conditions from the DAB and MAPC and those conditions did not include platting. Stated she would recommend that the Council correct the recommended action and read it aloud.

Motion--

Schlapp moved to adopt the findings of the MAPC and approve the Planned Unit Development zone change subject to the conditions of the Planned Unit Development and withhold publication of the ordinance until the conditions have been met. Motion carried 4 to 0, (Gray absent and Fearey absent).

--carried

## ORDINANCE NO.

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended, introduced and under the rules laid over.

**SUB2006-96**

### **SUB2006-96-PLAT OF WALSH ADDITION LOCATED EAST OF WEST STREET AND NORTH OF MAPLE. (DISTRICT VI)**

Agenda Report No. 07-0357

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)

This site, consisting of one lot on 1.27 acres, is located within Wichita's city limits. A zone change (ZON 2004-61) from "SF-5" Single-family Residential District to "MF-18" Multi-family Residential District has been approved. This plat is subject to a Protective Overlay (PO #159) addressing lighting, building height, screening and parking. A Notice of Protective Overlay has been submitted.

Municipal services are available to serve this site. A Petition, 100 percent, and a Certificate of Petition have been submitted for paving improvements. Municipal Services are available to serve the site.

This plat has been reviewed and approved by the Planning Commission, subject to conditions. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Ensure Efficient Infrastructure.

The Notice of Protective Overlay and Certificate of Petition will be recorded with the Register of Deeds.

Motion--

Brewer moved that the documents and plat be approved; the necessary signatures authorized; the Resolution adopted; and the Ordinance placed on first reading. Motion carried 5 to 0, (Fearey absent).

--carried

Resolution of findings of advisability and resolution authorizing constructing paving improvements at the intersection of First Street & McComas Avenue (east of West Street, north of Maple) 472-84548, 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 5 to 0. Yeas: Longwell, Gray, Schlapp, Skelton, and Brewer (Fearey absent).

## ORDINANCE NO.

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended, introduced and under the rules laid over.

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SUB2006-98

## SUB2006-98-PLAT OF HUNTER'S HEALTH CLINIC SECOND ADDITION, LOCATED ON THE NORTH SIDE OF CENTRAL AND EAST OF HYDRAULIC. (DISTRICT I)

Agenda Report No. 07-0358

Staff Recommendation: Approve the plat.

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

This site, consisting of one lot on 2.99 acres, is a replat of the Hunter Health Clinic Addition and a portion of Stite's Bro's 2nd Addition. A zone change request (ZON 2006-49) from "TF-3" Two-Family Residential to "GO" General Office has been approved.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for alley, sewer and water improvements. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves. An Alley and Drive Approach Closure Certificate has been submitted for the closure of the east-west alley return and for the closure of any driveway openings. A Temporary Utility Easement has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions.

Ensure Efficient Infrastructure.

The Certificate of Petitions, Restrictive Covenant, Alley and Drive Approach Closure Certificate and Temporary Utility Easement will be recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the documents and plat be approved; the necessary signatures authorized; the Ordinance placed on first reading; and the Resolutions adopted. Motion carried 5 to 0, (Fearey absent).

### RESOLUTION NO. 07-250

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-90291(north of Central, east of Hydraulic) 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 5 to 0. Yeas: Longwell, Gray, Schlapp, Skelton, and Brewer (Fearey absent).

### RESOLUTION NO. 07-251

Resolution of findings of advisability and resolution authorizing construction of Lateral 18, District D, Sanitary Sewer No. 12, 468-84350 (north of Central, east of Hydraulic) 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 5 to 0. Yeas: Longwell, Gray, Schlapp, Skelton, and Brewer (Fearey absent).

### RESOLUTION NO. 07-252

Resolution of findings of advisability and resolution authorizing constructing pavement on the alley north of Central, from the east line of Spruce to east line of the alley east of Spruce, 472-84549 (north of Central, east of Hydraulic) 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 5 to 0. Yeas: Longwell, Gray, Schlapp, Skelton, and Brewer (Fearey absent).

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## ORDINANCE NO.

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended introduced and under the rules laid over.

VAC2006-00037

**VAC2006-00037-REQUEST TO VACATE THE PLAT'S TEXT TO ALLOW ADDITIONAL USES IN A PORTION OF A PLATTED RESERVE, LOCATED ON THE SOUTHWEST CORNER OF MAINSGATE STREET AND 127TH STREET EAST. (DISTRICT II)**

Agenda Report No. 07-0359

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text for a portion of platted Reserve B, Fairmont Addition. The applicant requests the vacation to allow the additional uses of a neighborhood pool, parking and a pool house while retaining the existing allowed uses in Reserve B. The uses that Reserve B have been set aside for include landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. There are manholes and a sewer line in the west portion of the reserve, confined to a platted utility and drainage easement located in the reserve, but there appears to be no water lines in the reserve. Franchised utilities are confined to the platted drainage and utility easement located along the west side of the reserve. The plat also states that Reserve B shall be owned and maintained by the homeowners of the association for the addition. The Fairmont Addition was recorded with the Register of Deeds on February 21, 2002. This case is also associated with BZA2006-00065, a variance on the parking, and CON2006-00033, a conditional use request for a neighborhood pool and its associated uses in "SF-5" zoning.

The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Ensure Efficient Infrastructure.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion--  
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 5 to 0, (Fearey absent).

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VAC2006-00043

**VAC2006-00043-REQUEST TO VACATE PORTIONS OF PLATTED SETBACKS LOCATED ON THE NORTHEAST CORNER OF ROCK ROAD AND BRADLEY FAIR PARKWAY. (DISTRICT II)**

Agenda Report No. 07-0360

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicant proposes to vacate 25-feet of a southern portion of the platted 50-foot setback which runs parallel to the site's Rock Road frontage and 10-feet of the platted 35-foot setback which runs parallel to the site's Bradley Fair Parkway frontage, all on Lot 1, Block 1, Bradley Fair 2nd Addition, which is a key corner lot. This case is associated with CUP2006-50, DP-191, a proposed amendment, which will reduce the CUP's setbacks (which are these platted setbacks) to allow the expansion of the maximum building coverage and gross floor area on the site, referred to as Parcel 7. The Unified Zoning Code's (UZC) minimum street side setback for a CUP is 35-feet. Per the UZC, the Metropolitan Area Planning Commission (MAPC) or the Governing Body may modify or waive the setback and lot coverage requirements as part of an amendment of the CUP, as directed in Art.III, Sec.III-2(d) of the UZC. This is the first requested reduction of the CUP's/platted setbacks that run parallel to the CUP's street frontage. The base zoning of the CUP is "LC." The UZC requires a minimum of a 10-foot street side yard setback (the Rock Road side) and 20-foot front yard setback (the Bradley Fair Parkway side). There are no platted easements, manholes or sewer line located in the described portion of the platted setback. The Bradley Fair 2nd Addition was recorded with the Register of Deeds on June 10, 1996.

The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Ensure Efficient Infrastructure.

Motion--  
--carried

Brewer moved that the Vacation Order be approved and the necessary signatures authorized.  
Motion carried 5 to 0, (Fearey absent).

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## CITY COUNCIL

### **DIST. I VACANCY**

### **PROCEDURE FOR FILLING VACANCY IN CITY COUNCIL DISTRICT #1.**

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 07-0361

On April 10, 2007, Carl Brewer submitted his resignation as City Council member for City Council District #1 because he was elected as Mayor. It is now necessary for the City Council to set in motion the process for filling the vacant position in City Council District #1.

Section 2.04.040 of the City Code provides the following steps for filling the vacancy:

- The City Council announces the Notice of Vacancy in District # 1.
- The City Council announces that petitions by candidates to fill the vacancy must be filed with the City Clerk within three weeks unless a time certain is otherwise indicated by the City Council.
- The City Council also designates the District Advisory Board for Council District #1 as the appropriate group to conduct a public forum to screen the candidates.
- The District Advisory Board for District #1 shall, within seven days following the petition deadline set by the City Council, hold a forum open to the public to screen all candidates who filed a lawful petition for candidacy.
- At the conclusion of the public forum, the District Advisory Board for District #1 shall, by majority vote of the members present, nominate not less than four and not more than five candidates for the City Council to consider.
- At the next regular meeting of the City Council following the nomination, at which all of the remaining Council members are present, the remaining Council members shall elect by written ballot from those nominated a new member to fill the unexpired term of office, and such election shall require a majority vote (four votes).

There are no financial considerations.

The City Council has established the vacancy process by City Ordinance.

Motion--

Brewer moved to hereby announces the Notice of Vacancy for the position of City Council Member for District Number 1, because of the resignation of City Council Member Carl Brewer, that was effective on April 10, 2007, 2. Set May 1 2007, at noon, as the deadline for candidate petitions to be filed with the City Clerk of the City of Wichita, 3. The District Advisory Board for City Council District Number 1 is hereby designated to conduct a public forum within seven days of the above candidate petition deadline to screen all candidates who file a lawful petition for candidacy and forward to the City Council in writing the names of the candidates nominated in alphabetical order, and 4. All other procedures for filing for the vacant position and filling the vacancy will be in accordance with City Code Section 2.04.040, unless otherwise designated by the City Council.

--carried

Motion carried 5 to 0, (Fearey absent).

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## DISCUSSION

### DISCUSSION OF CITY WIDE PAVING OF DIRT STREETS-(COUNCIL MEMBER SKELTON).

Council Member Skelton Council Member Skelton stated that he asked Chris Carrier to provide a background.

Chris Carrier Public Works Director gave a brief background regarding dirt streets.

George Kolb City Manager stated the CIP will be a tough one this year and Staff will be talking to each of the Council Members and it would be his recommendation that the Council look at this issue as part of the overall look at the CIP. Stated they are not only talking about roads, dirt streets, and sewer but also public facilities and all of those projects are competing for those same dollars and to look at one issue at this time may not and could have an impact on the overall CIP. Stated Staff would be more than happy to bring Council Member Longwell up to speed with the rest of the Council by making those presentations to him and any other Council Member. Stated this is a Council decision on how you want to proceed but wanted to caution them that the CIP is going to be very tough this year.

Council Member Skelton Council Member Skelton stated there are other things we need to look at in conjunction with not only the financing part and his opinion is that we need to look at alternative methods for paving and are there ways that we can do things differently to lower the costs for the paving. Stated he thinks we should look at extending the assessment period as a way to lower the costs and making it more affordable for homeowners in these low income areas and there are the income deferral qualifications that still have not been looked at. Stated he and Council Member Fearey have an idea on how to do this. Stated we look at raising the standard of living of people in this area and this is a way to help them help themselves by finding a way to reduce the costs of the assessments as they are now. Stated he is not suggesting that the City flip the bill entirely for a dirt street but would like to see if we can chip in a little more. Stated this paving is addressed in the neighborhood plans of the area that they have identified as a way to improve their communities and this is in conjunction with the neighborhood plans that the City has adopted. Asked the Council to allow him and another Council Member work with Staff to come up with some viable options and work with the Manager to have a workshop discussion that would serve as a platform for the Council to make a decision on.

**OFF-AGENDA ITEM** Mayor Brewer requested that an off-agenda item be permitted.

Motion--carried Gray moved to allow the off-agenda item. Motion carried 5 to 0.

Mayor Brewer Mayor Brewer stated that the issue of gaming has come up and is coming our direction and the county is making a decision to have it on the ballot. Stated whatever happens is going to have an impact on the City of Wichita and would like to make sure that the Council is involved during the entire discussion in making sure that everyone is involved and has input into what is going on. Stated one of the things he would like to ask is to put together a team between the City and the County with the two managers and the CVB so that we can gather information on the whole impact of whatever happens and to have some say in what happens. Stated the County is willing to work with the City and is asking that the Council allow the City Manager to start dialogue with the County and put together the team to provide information to the Council Members and County Commissioners.

George Kolb City Manager stated this will be necessary in order for us to determine locations and set standards and that it be consistent between the City and the County in terms of what we are looking at.

Motion-- Brewer moved that the City Council send the City Manager to work with the County Manager to establish a task team to investigate the impact of gaming and to bring back the information to the City Council and to set up meetings between the City Council and the County Commission so that we can review this information and keep track of the path of this item. Motion carried 5 to 0.  
--carried

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## RECESS

### EXECUTIVE SESSION

Motion--

Brewer moved that the City Council recess at 12:45 p.m. into Executive Session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: legal advice and matters privileged to the employer-employee negotiations and that the Council return from Executive Session no earlier than 1:00 p.m. and reconvene in the City Council Chambers on the First Floor of City Hall. Motion carried 5 to 0, (Fearey absent).

## RECONVENED

The City Council reconvened in the Council Chambers at 1:21 p.m. Mayor Brewer announced that no action was taken.

Motion--

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

Motion--

Brewer moved to close the regular meeting. Motion carried 4 to 0, (Skelton and Fearey absent).

## ADJOURNMENT

There being no further business to come before the City Council, the meeting adjourned at 1:22 p.m.

Respectfully submitted,

Karen Sublett, CMC  
City Clerk