

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 1

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, January 15, 2008
Tuesday, 9:03 A.M.

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

Ed Flentje, Interim City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

The pledge of allegiance was participated in by the Council Members, Staff and guests.

Reverend Dave Fulton, St. Paul's Lutheran gave the invocation.

The Minutes of the regular meeting of January 8, 2008, approved 7 to 0.

AWARDS AND PROCLAMATIONS

Proclamation

Proclamation: Crime Stoppers Month.

Mayor Brewer read aloud the proclamation.

PUBLIC AGENDA

Dorothy Clodfelter-Smoking Ban, Freedom to Choose.

Dorothy Clodfelter

Ms. Clodfelter resides at 11816 Jennie Street, stated she has served in the army for 10 years and comes from a proud military family who has defended the rights and the liberties of everyone here today. Stated every service member has protected and defended the constitution and many have paid for it with their lives. Stated it saddens her that the rights and liberties of the individual bar and restaurant owners are being challenged. Stated freedom of choice comes before her own personal opinions and beliefs and is what makes this country strong. Stated when the Council makes their decision, she asks that they do nothing and to put their own personal beliefs and opinions behind them and make freedom of choice the Council's number one agenda. Asked the Council to let the owners decide how to manage their own businesses. Stated that freedom of choice is the American way.

Diane Tinker-Proposed Clean Air Ordinance.

Diane Tinker

Ms. Tinker resides 6401 East Beachy, stated she is the Development Director for the American Lung Association. Stated that the facts are clear and it is time to take Wichita smoke free and it makes sense in terms of health and economics. Stated in Kansas each year, second hand smoke kills an estimated 290 to 520 adults, children, and babies and kills more people than alcohol, aids, car crashes, illegal drugs, murders, and suicides combined. Stated employees who work in smoke filled businesses suffer 25 to 30% higher risk of heart attacks and can see their lung cancer risk increase by 20 to 30%. Stated lung cancer is the number one cancer killer in men and women. Stated that the 2006 Surgeon General Report on the affects of second hand smoke, states that scientific evidence indicates that there is risk free level of exposure to second hand smoke. Eliminating smoking in indoor places fully protects non-smokers for exposure to second hand smoke, separating smokers from non-smokers, cleaning the air, and ventilating buildings cannot eliminate exposure of non-smokers to second hand smoke. Stated smoke free work place policies are the only effective way to eliminate second hand smoke. Stated it has also been proven that going smoke free does not hurt business and a study of sale tax data from 81 localities in six states, found that smoke free ordinances have no effect on revenues and researchers found that studies showing negative impacts on the hospitality industry were usually based on

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 2

predictions or estimates of changes and mainly found by the tobacco industry, non were published in peer review journals. Stated despite the over whelming facts showing that 100% comprehensive smoke free ordinances do not hurt businesses and is in the best interest of public health, the opposition tells us that it is a matter of choice. Stated it is a matter of choice for those who choose to own and or patronize these businesses and to take their life and breath into their own hands but it is a different story for those who work in those bars and restaurants. Stated minorities are less likely to be covered by smoke free policies because they comprise a larger percentage of blue collar and service industry jobs. Stated in 2002 food service workers in the U.S. accounted for the fourth highest number of employees in the workforce and 1 in 5 was a teenager and over 30% were either African American or Hispanic. Stated in Wichita, the Hispanic population makeup is 10.3% of the City's population and African Americans are 9%. Stated during an eight hour shift in a smoky bar, a non-smoking employee can inhale the equivalent of 16 cigarettes and smoke filled rooms can have up to six times the air pollution as a busy highway and workers and bars are exposed to second hand smoke at a risk level 47 times higher than the federal governments defined level for a carcinogen. Stated employees who work in smoke filled businesses suffer 25 to 30 % higher risk of heart attacks and increase in lung cancer risks by 20 to 30%. Stated by exempting bars and restaurants from a smoke free ordinance, a clear message is sent to workers in those establishments that their health and right to breathe clean air and their right to good health is not as important as the health of someone who does not work in a bar or restaurant. Stated it is time for us to stand up for every person in Wichita and say we will not put your health at risk any longer and it is time for Wichita to join the hundreds of other cities that put health first and time for a 100% comprehensive smoke free ordinance.

Council Member Gray Council Member Gray asked why has OSHA not taken any position on this being that is their job and why is it being left up to the municipalities.

Ms. Tinker Ms. Tinker stated she does not know why they have not and with this overwhelming data you would think that they would want to. Stated she can check and get back with that information sometime this morning. Stated regardless it is up to us as a City and the Council to take the step and say we need to protect the people who work in those restaurants and bars and protect those minorities and teenagers who need their health protected.

Council Member Gray Council Member Gray stated that line of logic has lead him to wonder their position as they look at that from a workers standpoint because when we talk about environmental regulations and the EPA does that on a national basis, we as a municipality and a water utility often complain that EPA is being too stringent on environmental regulations that they are putting on us and yet we turn around and want to increase those upon the people even more so than ourselves. Stated he is kind of curious why the federal government has not does this and why it is being asked by us.

Cindy Claycomb-Clean Indoor Air Ordinance.

Cindy Claycomb Ms. Claycomb resides at 151 North Rock Island, stated one thing we do really well in this community is seek public input on issues. Stated Visioneering is one of these areas and Transforming Wichita's vision to be a premiere mid-western city where people want to visit, live, and play is based on Visioneering's goals, which reflect the common visions of thousands who have participated in meetings and discussions and what we want our community to look like in 20 years. Stated one goal is to reduce tobacco use by 50% by 2014 and Visioneering asked the Tobacco Free Wichita Coalition to champion this goal and one of most effective and lowest cost ways to reduce tobacco use is to implement a public smoking ban. Stated the coalition decided to ask for public input on such a ban and obtained a grant to conduct a survey and the results indicated that 73% of Wichita voters want a comprehensive clean indoor air ordinance for all workplaces including restaurants and bars. Stated their Clean Air Wichita Campaign believes that this is the right time to take a stand and pass a comprehensive clean indoor air ordinance for Wichita. Stated this ordinance should cover all workplaces including restaurants and bars. Stated there has been talk about a compromise but public health is not the place for a compromise and how can we ignore the public input that we are usually so good about taking and how do we decide that some employee's health are more important that someone else's. Stated a comprehensive ordinance is the only way to give all businesses a level playing field.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 3

Roger L. Smith-Public Health Rationale for Implementation of a Clean Indoor Air Ordinance.

Roger Smith

Mr. Smith resides at 132 South Edwards, stated he is speaking in support of a clean indoor air ordinance for Wichita. Stated second hand smoke presents a health risk and less is better but there is no safe level. Stated the issue before the Council is one of political policy issue and clean indoor air is not a question of business rights. Stated businesses serving the public are already regulated and most businesses recognize the rights of their customers and employees to breathe clean air and others are waiting for City government to create a level playing field because they do not want to offend the minority who smoke. Stated we do not usually allow businesses to facilitate harm to others based on a perception of lost revenue and clean indoor air is not a question of individual rights. Stated we should not leave health and safety to market forces and this is not a matter of consumer preference or aesthetics and letting the market decide will work eventually but will be responsible for the considerable damage that will occur in the meantime. Stated people do not vote as frequently as they should when the risk is not visible or does not seem immediate. Stated non-smokers have been too polite to the detriment of their own health. Stated customers may not have as much choice as one might think and young and less skilled workers cannot always find smoke free alternatives to their jobs and they should not have to choose between a paycheck and their health. Stated to be effective, a clean indoor air ordinance needs to be comprehensive. Everybody deserves protection and exemptions would destroy the level playing field if businesses tell us they need to compete fairly. Stated we should not adopt a local ordinance because others have, we should do it because it is the right thing to do. Stated we should do this now and do it right the first time and urged the Council to provide clean indoor air for Wichita.

Ty Kane-Sedgwick County Health Department's Division of Health Promotion and Protection-Health Impact of Second-hand Smoke.

Ty Kane

Mr. Kane resides at 203 North Terrace Drive, stated the Sedgwick County Tobacco Use Prevention Program has four goals to prevent initiation of tobacco use among youth and young adults; to promote cessation among adults and youth; to identify and eliminate tobacco related disparities among specific population groups; and to eliminate exposure to second hand smoke. Stated these goals are based on best practices from the Centers for Disease Control and Prevention and are also shared by the Kansas Department of Health and Environment's Tobacco Control Program. Stated he is excited to see that the City Council is now considering an ordinance that would protect Wichitans and visitors from the dangers of second hand smoke. Stated evidences show that a comprehensive ordinance would be a good idea. Stated as more cities and states pass clean air laws the benefits continue to shown through research. Stated across the country more than 20 states and thousands of communities have passed smoke free laws while many cities pass effective comprehensive ordinances, a few choose laws with exemptions. Stated exemptions effectively water down the ordinance and leave many residents unprotected and a major call for exemptions is the outcry from a loud minority of opponents. Stated opponents claim that second hand smoke is not a health issue and they argue that the government is abusing their right to choose. Stated they also argue that most restaurants and bars will suffer economically if an ordinance passes. Stated the facts show that second hand smoke is a public issue and evidence from peer reviewed studies show that smoke free policies do not have an adverse economic impact on the hospitality industry. Stated in the case of clean air laws, the role of policy makers is to enact regulations for the protection and enhancement of the public health and not to cater to the special interests of an extreme minority. Stated of the 26 cities in Kansas that have passed a clean air ordinance, many approved a comprehensive one and several cities that initially passed a watered down ordinance are now trying to make their laws even stronger. Stated one city that did it right the first time is Lawrence. Stated their ordinance serves as a model for the rest of Kansas as it protects employees and guests in all bars, restaurants, public places, and workplaces.

Council Member Longwell Council Member Longwell stated regarding the Lawrence ban, there has been some confusion and he has been talking to several people in the community that operate some bars and restaurants. Stated his understanding of the Lawrence style ban is that it does offer exemptions and there are some things in that Lawrence style ban that will allow smoking at certain establishments as long as it is outdoors.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 4

- Ty Kane Mr. Kane stated he would still consider that a comprehensive ordinance as it compares to what is going on right now. Stated generally it is accepted by the people that he associates with and people in public health for that outdoor exemption because right now there is not much scientific evidence that smoking outdoors has a negative impact.
- Council Member Longwell Council Member Longwell stated that also in that Lawrence style ban there is also some indoor exemptions if they meet certain criteria. Stated your comprehensive ban does not exclude certain exemptions and one of the restaurant owners he spoke to this week, did not understand that the Lawrence style ban included any exemptions and simply thought that it was a ban in all restaurants and bars and he explained to him that if you meet certain conditions in some indoor rooms you can offer a smoking environment and can meet that same criteria for some outdoor spaces. Stated he does not want to mislead the public, there are exemptions and refrains from using the word "ban," it is really not a ban but just changing the environment that people can smoke in. Stated they are not banning smoking in places and you can still have the ability to smoke in public but under certain conditions.
- Ty Kane Mr. Kane stated it depends how you look at it and a lot of that is left up to interpretation. Stated there is an exemption in there specific to one large employer in Lawrence. Stated regarding OSHA, he does not know what they have said but second hand smoke has been designated as a known human carcinogen by the U.S. EPA, the National Toxicology Program, and the International Agency for Research on Cancer, and an occupational carcinogen by the National Institute for Occupational Safety and Health.
- Council Member Gray Council Member Gray stated that he builds houses and sawdust is a known carcinogen and they do not tell them that they cannot breathe that. Stated regarding exemptions in certain circumstances in the Lawrence ordinance, inquired what thresholds you have to meet to be able to qualify for those exemptions.
- Council Member Longwell Council Member Longwell stated some of the exemptions in the Lawrence style ban that he understands, are simply if you want to have a smoking environment in your bar or restaurant, it has to be in an outdoor patio area.
- Council Member Gray Council Member Gray stated you are creating a competitive disadvantage again for those businesses who do not have the ability to put in a patio and is a cost burden on those who have the ability to put in a patio but cannot afford to. Stated they say we have to have equitability in restaurants and bars so that we do not put one at a competitive disadvantage over the other because there is a number of restaurants and bars that logistically there is no where for them to put a patio and it may costs them several thousands of dollars to put something in.
- Council Member Longwell Council Member Longwell stated his not arguing either way yet, but his only concern is that when he hears comprehensive ban, many people have no idea that there are any kind of exemptions and he would like to make it clear that in the Lawrence style ban, there are exemptions. Stated he did not want people to be confused on this.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 5

CONSENT AGENDA

Council Member Gray

Council Member Gary requested that item 17h be pulled for discussion.

Motion--
--carried

Brewer moved that Consent Agenda items 6 through 17m, in accordance with the recommended action shown thereon excluding item 17h. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED JANUARY 14, 2008

Bids were opened January 11, 2008, pursuant to advertisements published on:

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

Waterwalk Phase 2 Package 3 Public Improvements (east of Arkansas River, north of Kellogg) (472-84554/792424/635674/435352/765747) Traffic to be maintained during construction using flagpersons and barricades. (District I)

Cornejo & Sons Construction - \$504,481.15

Lateral 1 Main 24 Southwest Interceptor Sewer to serve Edge Water Addition (north of K-96, west of Hoover) (468-84365/744260/480949) Does not affect existing traffic. (District VI) Water Distribution System to serve Edge Water Addition (north of K-96, west of Hoover) (448-90313/735391/470064) Does not affect existing traffic. (District VI)

Mies Construction - \$967,827.90 Group 1
\$140,949.06 Group 2
1,108,776.96 Total Aggregate Bid

Motion--
--carried

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

ASBESTOS ABATEMENT-CENTURY II: Public Works Department/Building Services Division.

Asbestos Removal & Maintenance - \$82,000.00

CITRIX PRESENTATION SERVER UPGRADE/RQ80047: Information Technology/Info Services.

Citrix Systems Inc.* - \$43,797.75

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

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 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 6

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption off Premises)</u>
Lethanh T. Le	Broadway Supermarket	1336 North Broadway
Clinton E. Davidson	Checkers K15	1915 East Pawnee Street
Jim Ross	Rosco, Inc.	825 East 2nd

<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Ned Goyne	Arthur B. Sim Municipal Golf Course*	2020 West Murdock Street

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

Motion--
--carried

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

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. 2007 Sanitary Sewer Rehabilitation, Phase F (various locations south of 13th Street North, east of Meridian) (468-84444/620498/667615) Traffic to be maintained during construction using flagpersons and barricades. (District I, II, III, IV, VI) - \$386,500.00
- b. Water Distribution System to serve Stonebridge 2nd Addition (north of 13th Street North, west of 159th Street East) (448-90293/735395/470068) Does not affect existing traffic. (District II) - \$133,000.00
- c. Water Distribution System to serve Cross Pointe 2nd Addition (south of 21st Street North, east of Greenwich) (448-90352/735397/470070) Does not affect existing traffic. (District II) - \$36,500.00
- d. Planeview Football Field Phase 1 (South Site) (west of Oliver, north of 31st Street South) (472-84503/785065/785111/395197/397221) Does not affect existing traffic. (District III) - \$399,506.00
- e. Main 24 Four Mile Creek Sewer to serve Monarch Landing 2nd Addition (north of 21st Street North, west of 159th Street East) (468-84429/622106/677134) Does not affect existing traffic. (District II) - \$300,000.00
- f. Lateral 1, Main 24 Four Mile Creek Sewer to serve Monarch Landing 2nd Addition (north of 21st Street North, west of 159th Street East) (468-84432/744256/480945) Does not affect existing traffic. (District II) - \$211,000.00
- g. Water Distribution System to serve Monarch Landing 2nd Addition (north of 21st Street North, west of 159th Street East) (448-90334/735398/470071) Does not affect existing traffic. (District II) - \$204,000.00
- h. Storm Sewer Improvements for the intersection of Tara and Tipperary to serve Vickridge 2nd Addition (north of Central, east of Rock Road) (468-84447/660532/857108) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$44,980.00

Motion--carried

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

STREET CLOSURE

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 7

HEARTLAND PTAC

COOPERATIVE AGREEMENT WITH HEARTLAND PTAC.

Agenda Item No. 10.

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

The Finance Department/Purchasing Division is continuously striving to find ways to enhance and improve the Emerging and Disadvantaged Business Enterprise Program. The cooperative agreement between Heartland PTAC and the City of Wichita increases procurement opportunities for Kansas businesses by providing comprehensive technical assistance to businesses interested in selling their goods and services to the federal government.

The mission of Heartland PTAC (HPTAC) is to identify Missouri and Kansas businesses with the potential for market expansion through Department of Defense (DoD) and other government procurement opportunities and assist those viable companies in becoming successful DoD and government contractors. This expands the industrial base and increases competition of DoD goods, which reduces the cost of maintaining a strong national security, and also enhances the economies of Missouri and Kansas.

Another important component of Heartland PTAC is the development of linkages with other programs at the federal, state, and local level. This program works in close cooperation with the Missouri and Kansas Small Business Development Centers' (SBDCs') full services and technology centers. This allows participating firms to receive a full range of business development services, including business management assistance, product development and technology transfer.

The Finance Department/Purchasing Division collaborates with Heartland PTAC. This collaboration increases the range of business development services that are offered by the Emerging and Disadvantaged Business Enterprise Program. The services that Heartland PTAC provides include general procurement counseling, assistance with bidder application forms, matching of products and/or services with appropriate buying activities, bid package review, pre-award and post-award assistance, and providing specifications and other information needed to complete government bids. Without this assistance, many of the program's clients might not consider entering the government market.

Total cost to the City for the 12-month agreement is \$23,333 in non-federal, in-kind matching funds. The existing EBE program budget already established and included within the Purchasing Division (OCA 037200) is eligible to provide the match. The City of Wichita will receive \$9,278 of federal Procurement Technical Assistance (PTA) funds from Missouri Southern State University.

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

The Law Department has reviewed and approved the contract as to form. The contract will be for 12 months beginning January 1, 2008 through December 31, 2008.

Motion--
--carried

Brewer moved that its relationship with Heartland PTAC be continued; the contract approved; and the necessary signatures authorized. Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 8

NARCOTIC SEIZURE FUND BUDGET.

Agenda Item 11.

The Wichita Police Department has utilized the Narcotic Seizure Fund for approximately a decade to fund drug related Police operations. The Narcotic Seizure Fund consists of monies from federal, state, and other agencies obtained as a result of investigations into illegal enterprises such as the possession and sale of narcotics. After the judicial process is completed, the funds are awarded to the Department. The Wichita Police Department adheres to stringent state and federal guidelines in accounting for and using the Narcotic seizure funds.

The budget for the Narcotic Seizure Fund is adopted to permit the expenditure of funds forfeited to the Wichita Police Department. Federal and state regulations require separate accounts for assets forfeited under different forfeiture programs.

As of December 31, 2007, the Narcotic Seizure Fund totaled \$186,316.25. The following budget is recommended for 2008:

<u>Budgeted Item</u>	<u>Amount</u>
Undercover buy money	30,000
Undercover vehicle maintenance/operations	30,000
Undercover Fuel	42,504
Undercover fleet replacements	25,000
Law enforcement training	15,000
Undercover rent	33,000
Annual audit	3,000
Contingency/fund reserve	7,812.25
Total	\$186,316.25

Provide a safe and secure community by placing an emphasis on eliminating illegal enterprises such as the possession and sale of narcotics.

Federal and State laws require local units of government to use forfeited assets to supplement the funds dedicated to law enforcement and prohibits supplanting local funds with forfeited assets.

Motion--carried Brewer moved that the budget for the Narcotic Seizure Fund be adopted. Motion carried 7 to 0.

DECEMBER 2007 MONTHLY CONTRACTS AND AGREEMENTS REPORT TO COUNCIL.

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

MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Deferred Compensation Board, May 2, 2007
Deferred Compensation Board, May 24, 2007
Deferred Compensation Board, July 26, 2007
Deferred Compensation Board, September 25, 2007
Wichita Employees' Retirement Board Police and Fire Retirement Board, October 4, 2007
Police and Fire Retirement System, October 24, 2007
Deferred Compensation Board, November 1, 2007
Wichita Historic Preservation Board, November 5, 2007

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

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 9

PIONEER BALLOON

PURCHASE OPTION, PIONEER BALLOON. (DISTRICT I)

Agenda Item No. 14.

On August 16, 1994, the City Council approved the issuance of \$4,500,000 in Industrial Revenue Bonds, Series IX-A, 1994, and \$1,500,000 in Subordinated Taxable Revenue Bonds, Series IX-B, 1994 for the benefit of Pioneer Balloon, and subsequent restructuring amendment on May 6, 2003. Bond proceeds were used for the purpose of financing the world headquarters facility, located at 5000 E. 29th Street North, in Wichita. The Bonds are secured, in part, by a Lease Agreement with Pioneer Balloon. ("Tenant").

Under the provisions of the Lease Agreement the Tenant has the option, if all outstanding bonds and Trustee Fees have been paid, to purchase the facility from the City of Wichita for the sum of \$1,000. The Bonds have matured, and the City received notice from the Tenant of the company's intention to exercise its purchase option.

Under the terms of the Lease, upon receipt of written notice, the City is required to convey its interest in the property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds. The Series IX-A and IX-B, 1994 Bonds reached their maturity on November 1, 2007. Subject to receiving proof that all applicable conditions have been met, it is now appropriate for the City to deliver the instruments needed to deed the bond-financed property back to Pioneer Balloon and terminate the IRB lease. The City has already received payment of the \$1,000 purchase option price. Tenant requests that Issuer waive the minimum 30 day notice requirement.

The purchase price is \$1,000 and other considerations as listed under the purchase option provision of the Lease Agreement. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

Economic Vitality and Quality of Life. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

The City is contractually bound to convey the IRB Project property to the Tenant once all the conditions established in the Lease have been met. The City Attorney's Office has approved the form of the attached Resolution to authorize the execution of the Special Warranty Deed, Bill of Sale, and Termination of Lease Agreement (each in substantially the form attached to the Resolution), and the delivery of such documents following satisfaction of applicable conditions.

Motion--

Brewer moved that the notice requirement be waived; the Resolution approving the Special Warranty Deed, the Bill of Sale, and the Termination of Lease Agreement adopted. and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-029

A Resolution authorizing the City of Wichita, Kansas, to convey certain real property to Vlamis Enterprises and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 10

CONDEMN. AWARD PAYMENT OF CONDEMNATION AWARD TO ACQUIRE PROPERTY NEAR 29TH STREET AND MAIZE ROAD. (DISTRICT V)

Agenda Item No. 15.

On April 25, 2006 the Council authorized the acquisition by eminent domain of easements on certain land adjacent to 29th Street from Maize Road to 119th Street for which no dedication incident to development had been offered. The easements were required to make road and drainage improvements in the area. The court appointed appraisers have filed their report of the value of these easements for road right of way purposes. The land is currently in agricultural use. The award is \$57,500.00. The related appraiser fees and expenses are \$16,647.00

In order for the City of obtain the temporary and permanent easements, it must pay the amount of the award, together with costs and appraisers' fees, into the Clerk of the District Court on or before February 4, 2008. Acquisition of this tract is necessary in order to secure use of the land incident to road and drainage construction, and for permanent easements for road right of way purposes.

This expenditure supports the efficient infrastructure goal, as it will allow significant improvement in the arterial roadway system in Northwest Wichita.

The cost of acquiring this property will be paid from General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation. Failure to pay the award by the stated date would be deemed an abandonment of the award, and subject the City to an award for the same sum in fees and expenses to the court, plus the owner's expenses in defending the action.

In order acquire the easements, it is necessary to pay the award, together with court costs and fees, to the Clerk of the District Court on or before February 4, 2008.

Motion--

Brewer moved that the payment to the Clerk of the District Court of the appraisers' award in the amount of \$57,500.00, together with the related costs and fees of \$16,647.00 as per journal entry, for acquisition of these temporary and permanent easements be authorized. Motion carried 7 to 0.

--carried

CONDEMN. AWARD PAYMENT OF CONDEMNATION AWARD TO ACQUIRE PROPERTY IN PAWNEE RANCH ADDITION FOR CONSTRUCTION, MAINTENANCE AND IMPROVEMENT OF A BIKE PATH. (DISTRICT III)

Agenda Item No. 16.

On April 25, 2006 the Council authorized the acquisition by eminent domain of five tracts of land that would allow construction, maintenance and improvement of a bike path along I-135, Gypsum Creek and George Washington Blvd. The court appointed appraisers have filed their report of the value of these five tracts. The award is \$122,000.00. The related appraiser fees are \$13,500.00. Court costs have previously been paid.

In order for the City of obtain title to these properties, it must pay the amount of the award, together with appraisers' fees, into the Clerk of the District Court on or before February 4, 2008. Acquisition of these tracts is necessary in order to secure use of the land for development of the bike path previously approved.

This expenditure supports the quality of life goal, as it will allow expansion of recreational and aesthetic benefits of the bike path system in the southeast part of Wichita.

The cost of acquiring this property will be paid from General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation. Failure to pay the award by the stated date would be deemed an abandonment of the award, and subject the City to an award for the same sum in fees and to the court, plus the owner's expenses in defending the action.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 11

In order acquire the properties, it is necessary to pay the award, together with the fees, to the Clerk of the District Court on or before February 4, 2008.

Motion--

Brewer moved that payment to the Clerk of the District Court of the appraisers' award in the amount of \$122,000.00, together with the related fees of \$13,500.00 as per journal entry, for acquisition of these properties be authorized. Motion carried 7 to 0.

--carried

PETITION

PETITION TO CONSTRUCT A SANITARY SEWER FOR EDGEWATER ADDITION, SOUTH OF 45TH STREET NORTH, WEST OF HOOVER. (DISTRICT V)

Agenda Item No. 16a.

On December 11, 2007, the City Council approved a petition to construct a sanitary sewer in Edgewater 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 Petition has been signed by two owners representing 100% of the improvement district.

The project will provide a sanitary sewer system for Edgewater Addition, a new residential development located south of 45th St. North, west of Hoover.

The existing Petition totals \$1,031,000. The new Petition totals \$1,145,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required 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--

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

--carried

RESOLUTION NO. 08-030

Resolution of finds of advisability and Resolution authorizing construction of Lateral 1, Main 24, Southwest Interceptor Sewer (south of 45th St. North, west of Hoover) 468-84365 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 12

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ JANUARY 8, 2008)

a. Nuisance Abatement Assessments.

ORDINANCE NO. 47-730

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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

ORDINANCE NO. 47-731

An ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot cleanup) under the provision of section 7.40.050 of the code of the City of Wichita, Kansas. Be it ordained by the governing body of the City of Wichita, Kansas, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

b. Sidewalk Repair Assessment Program.

ORDINANCE NO. 47-732

An ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks 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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

c. Abatement of Dangerous and Unsafe Structures.

ORDINANCE NO. 47-733

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (building condemnation-demolition) under the revision of sections 18.16.010 to 18.16.090 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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

ORDINANCE NO. 47-734

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (building emergency board-up) under the provision of sections 18.16.010 to 18.16.090 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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

d. Bonding Ordinance-South Broadway Viaduct, south of 31st Street South. (District III)

ORDINANCE NO. 47-735

An ordinance declaring south Broadway bridge (472-84597) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 13

- e. Ordinance Changes to the City of Wichita Mechanical Code (Title 22), adopting the 2006 International Mechanical Code and the 2006 International Fuel Gas Code, with local amendments.

ORDINANCE NO. 47-736

An ordinance adopting the 2006 international mechanical code and City of Wichita amendments thereto, amending sections 22.04.010, 22.04.022, 22.04.031, 22.04.034, and 22.04.036.16, creating sections 22.04.022 and 22.04.036.20 and repealing the originals of sections 22.04.010, 22.04.012, 22.04.022, 22.04.025, 22.04.030, 22.04.031, 22.04.034, 22.04.036.1, 22.04.036.3, 22.04.036.5, 22.04.036.7, 22.04.036.9, 22.04.036.11, 22.04.036.13, 22.04.036.14, 22.04.036.14a, 22.04.036.15, 22.04.036.16, 22.04.036.17, 22.04.036.19, 22.04.036.23, 22.04.036.24, 22.04.037, and 22.04.037.4 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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

ORDINANCE NO. 47-737

An ordinance adopting the 2006 international fuel gas code and City of Wichita amendments thereto, creating sections 22.05.010, 22.05.020, 22.05.030, 22.05.040 and 22.05.050 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 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

- f. Public Hearing and Issuance of Industrial Revenue Bonds, American Baptist Estates. (District IV)

ORDINANCE NO. 47-738

An ordinance authorizing the City of Wichita, Kansas, to issue its health care facilities revenue bonds, series I, 2008 (American Baptist Estates, Inc.), in the aggregate principal amount of not to exceed \$3,155,000 for the purpose of providing funds to acquire, construct and equip a health care facility; and authorizing the execution of certain documents in connection with the issuance of the bonds, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

- g. Amendment of Redevelopment Plan - Douglas and Hillside Redevelopment District. (District II)

ORDINANCE NO. 47-739

An ordinance authorizing the issuance of full faith and credit tax increment bonds of the city of Wichita, Kansas to pay all or a portion of the costs of acquiring real property, demolition of landscaping and decorative lighting in the public right-of-way, public parking facilities and park improvements in the Douglas and Hillside redevelopment project area, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

ORDINANCE NO. 47-753

An ordinance of the city of Wichita amending Ordinance No. 47-342 of the city of Wichita Adopting a Project Plan for the Douglas and Hillside Redevelopment District. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp; Skelton, and Williams and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 14

(Item 17h)

- h. Issuance of Special Obligation Tax Increment Financing Bonds, Broadway Plaza Home Depot Project. (District IV)

Allen Bell

Economic Development Administrator reported that this is the second reading of the bond ordinance for the tax increment financing special obligation bonds for the Broadway and 47th Street Home Depot Redevelopment Project. Stated normally the bond ordinance would be passed by consent and Staff is asking that it be pulled today so that they can modify the item in order to address a problem that has been identified by the State Attorney General's office. Stated they were notified yesterday that the Assistant Attorney General who deals with these municipal bond approvals raised a concern about the form of the ordinance that we use for the establishment of tax increment financing districts. Stated this district was established back in 2006 by an ordinance that they have used for all of their previous tax increment financing projects and it included the identification of the area by a map and the map had each parcel of property within the proposed TIF district identified. Stated a few years ago the legislature modified the TIF laws to require that these ordinances also include a written legal description and they did not pick up on that change in the law. Stated the Attorney General had on all of the TIF issues that they have had that they have gone to bonds with, has allowed the bond issue to go through without raising this issue primarily because their previous bond issues were GO'd back, they were backed by the City's full faith and credit so there was an alternative legal authorization in place. Stated in this case these are TIF revenue bonds or special obligation bonds and they do not have that additional authorization in place so this would be a problem for the issuance of these bonds. Stated the law department has drafted an amending ordinance that fixes the problem and they are scheduled to close this bond issue on January 31st and that is in compliance with a deadline from Home Depot because they have had a lot of delays because of the environmental issues with the project and they are anxious to get started on their project. Stated in order to keep with that schedule, we will need to adopt this amending ordinance that fixes the problem by adopting the ordinance on one reading after declaring a public emergency. Stated he has provided an alternative motion for the Council to pass.

Motion--

Gray moved that the bond ordinance be adopted on second reading and approve the Mayor's request for a declaration of an emergency and adopt the ordinance amending the redevelopment district ordinance on first reading. Motion carried 7 to 0.

--carried

ORDINANCE NO. 47-740

An ordinance authorizing and providing for the issuance of special obligation tax increment revenue bonds (Broadway plaza project), of the city of Wichita, Kansas, in an aggregate principal amount not to exceed \$2,450,000, for the purpose of providing funds to pay certain redevelopment project costs in connection with a redevelopment plan; and making certain covenants with respect thereto, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer

ORDINANCE NO. 47-752

An ordinance of the city of Wichita amending ordinance no. 47-017 of the city of Wichita establishing the Broadway & 47th street redevelopment district. Brewer moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp; Skelton, and Williams and Brewer.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 15

- i. ZON2007-00055 – Zone change from “SF-5” Single-Family Residential to “GC” General Commercial. Generally located on the east side of Ridge Road approximately 300 feet south of W. Taft Ave, 544 and 560 South Ridge Road. (District V)

ORDINANCE NO. 47-745

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

- j. ZON2007-57 - City Zone change from “MF-29” Multi-Family to “LC” Limited Commercial. Generally located southeast of the intersection of Meridian and Merton, 1702 South Meridian Avenue. (District IV)

ORDINANCE NO. 47-746

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

- k. SUB 2006-18 -- Plat of Westport Third Addition located west of Tyler Road and on the north side of Kellogg. (District V)

ORDINANCE NO. 47-747

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

- l. SUB 2007-44-Plat of Skyway West Addition located on the southwest corner of Maize Road and 31st Street South. (District IV)

ORDINANCE NO. 47-748

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

- m. A08-01R-Request by Kurt Bachman and Brad Bachman, of CBB Northlakes, LLC, to annex land generally located southwest of the intersection of 53rd Street North and Meridian Avenue. (District VI)

ORDINANCE NO. 47-749

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer, (A08-01)

Motion--carried

Brewer moved that the ordinances be adopted. Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 16

NEW BUSINESS

DOWNTOWN FACADE DOWNTOWN HIGH-RISE FACADE FINANCING. (DISTRICTS I AND VI)

Allen Bell

Economic Development Administrator reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Item No. 18.

On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for businesses to improve their property. Low interest, fifteen-year loans were made available to owners of buildings with frontage on Douglas Avenue, between Seneca and Washington.

On March 21, 2006, as part of approving two facade improvement projects, the City Council asked that the Facade Improvement Program be returned on a future agenda to consider expanding the program boundaries and providing additional funding. On August 1, 2006, the City Council approved expanding the program to target the commercial areas listed below:

- Downtown Self-Supporting Municipal Improvement District (SSMID)
- Center City
- Douglas, from Washington to I-135
- Delano
- Midtown
- 21st Redevelopment Area (International Marketplace)
- South Central (South Broadway area)
- McAdams
- Central Northeast

Real Development, represented by Michael Elzufon and Dave Lundberg, is requesting financing for exterior improvements to several high-rise buildings in the downtown area. If approved, their request would result in the issuance of special assessment debt against the subject buildings. The buildings are:

- The Kaufman Building – 212 South Market
- The Landmark Square Building – 212 North Market
- The Farmers and Bankers Building – 200 East 1st
- The Orpheum Building – 200 North Broadway
- The Petroleum Building – 221 South Broadway
- Sutton Place – 209 East William
- SC TelCom – 125 North Market

Although the City has approved many facade improvement projects since the creation of the Façade Improvement Program, including several high-rise building facades, this request is unique due to the size of the request. Total cost of the improvements for which financing support is being requested is projected to be \$7,675,967. With financing costs, the total amount of the issuance is estimated to be \$9,096,021, and the annual debt service would be approximately \$804,477.

A summary for each building follows:

The Kaufman Building is a four story building with 31,250 s.f. Owners have already invested in substantial tenant improvements. Projected cost for the facade improvements on this building are \$29,082 (increasing to \$34,463 with estimated financing costs). The proposal assumes 15 year special assessment financing.

The Landmark Square Building is a five story office building with 46,500 total s.f. Owners have already invested in tenant improvements, common area remodeling, and technology infrastructure enhancements. Projected cost for the facade improvements on this building, are \$332,186 (increasing to \$393,640 with estimated financing costs). The proposal assumes 15 year special assessment financing.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 17

The Farmers and Bankers (F&B) Building is a five story office building with 25,018 s. f. Owners have already invested in tenant improvements, common area remodeling, and technology infrastructure enhancements. Projected cost for the facade improvements on this building are \$166,261 (increasing to \$197,019 with estimated financing costs). The proposal assumes 15 year special assessment financing.

The Orpheum Building is a seven story office building with 44,506 s.f. Owners have already invested in interior improvements, including technology infrastructure and common area remodeling. Projected cost for the facade improvements on this building are \$194,776 (increasing to \$230,809 with estimated financing costs). The proposal assumes 15 year special assessment financing.

The Petroleum Building is an eight story office building with a total of 44,804 s.f. Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building are \$518,120 (increasing to \$613,972 with estimated financing costs). The proposal assumes 15 year special assessment financing.

The Sutton Place is an eight story building (plus a basement and penthouse) with a total 109,152 s.f. Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building are \$2,099,931 (increasing to \$2,488,419 with estimated financing costs). The proposal assumes 20 year special assessment financing.

The SC TelCom Building is a nineteen story building with 242,945 s.f. of office space and 92,000 s.f. of hotel and a parking garage. The owners have begun interior improvements, remodeling common areas, adding technology infrastructure, replacing the roof, various tenant improvements, and converting the old hotel space to office space. Projected cost for the facade improvements on this building are \$4,335,611 (increasing to \$5,137,699 with estimated financing costs). The proposal assumes 20 year special assessment financing.

Improvements to the Kaufman, F&B, Landmark, and Orpheum buildings are more general and involve things like masonry repair, tuckpointing, cornice repair, power washing, exterior painting, and window and door repair/replacement. In addition to simply having more exterior surface because of the larger size of the buildings, improvements to the Petroleum, Sutton Place and SC TelCom buildings are more substantial, changing the entire exterior appearance of the building on some sides to create a visually stimulating impact to travelers entering the downtown area.

Although Real Development staff have been in contact with representatives from the Design Council and the Design Review Committee of the Historic Preservation Board throughout to ensure the proposed work will satisfy necessary conditions and meet with ultimate approval of these groups, not all of the buildings in this project have received formal approval.

The combined project budget to be paid by special assessments is estimated to be \$9,096,021. The bonds will be GO Taxable Special Assessment Bonds, paid as to principal and interest with special assessments levied against the improved properties (if available) and will be backed by the full faith and credit of the City of Wichita. Finance staff will work with Bond Counsel (Kutak Rock) and a Financial Advisor (Springsted) to perform due diligence with regard to the City's risk and to structure the bonds before returning to the City Council for authorization to issue bonds.

The City Council's goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

State Statutes provide the City Council authority to use special assessment funding for the project.

Council Member Skelton Council Member Skelton asked where we are in regards to the City's bonding capacity.

Kelly Carpenter Director of Financing stated 30% of our assessed valuation and we have \$400 million dollars left in our debt capacity.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 18

- Council Member Skelton Council Member Skelton stated with our procedures for façade improvements there is usually a forgivable loan involved, which is tax payer money but does not see any of that here.
- Allen Bell Economic Development Administrator stated that for the high-rise projects they did not offer a forgivable loan and are not offering one now nor is the developer asking for one.
- Council Member Skelton Council Member Skelton stated regarding default, he understands that there are built-in protections and asked for clarification regarding the protections.
- Allen Bell Economic Development Administrator explained that the special assessment bonds are secured by both a special tax lien on the building and also by the full faith and credit of the City. Stated the City backing is what makes the bonds easy to sell and in the event of a default, the bonds place a special tax lien on the property. Stated the tax procedures require the special taxes to be paid with general taxes and you cannot just pay your general taxes and not pay your special taxes. Stated if the property remains in tax delinquency for the statutory period, which he believes is up to four years, the property will go to sheriff's sell. Stated the legal requirements for the disposition of the proceeds of a sheriff sell are to first pay off special taxes, second to pay off general taxes, and then the secured creditors get paid. Stated the tax liens are ahead of everybody.
- Council Member Skelton Council Member Skelton asked what the interest rates are and how they compare to private financing.
- Allen Bell Economic Development Administrator stated it will be lower than what you would get at the bank because of the City's backing of the bonds. Stated he would say somewhere between 5.5 and 6%.
- Ed Flentje Interim City Manager in regards to the question on debt capacity, he has asked the Finance Department to look at debt affordability and how we compare in various measures of debt affordability.
- Council Member Gray Council Member Gray stated he had several conversations with Allen Bell yesterday regarding this and the most important thing that he found as he was reviewing this was what collateral did we have, which the collateral is our ability to put a lien on the property if they go into default and the fact that that lien is superior to all other debts including mortgages. Stated if they put mortgages on the property to finance the interior improvements that are going to be necessary and they default, are we behind the mortgage companies to get our money back if it has to go up for a sell and the fact is, no we are not. Stated they also discussed if there is anything that could be done that we loose that position and we cannot assign away our first right of repayment through that debt period, which was good because he did not want someone to come back and say we need to step back and let the bank be at the front of the line or they will not give us mortgages and they cannot do that. Stated we are as covered as we can be which is a good thing and satisfies him to feel comfortable with this.
- Council Member Schlapp Council Member Schlapp stated the developer's ability to actually do this would not exist if the City does not step in and that is a key point. Stated she feels we are taking on a huge responsibility and that we need to be really careful.
- Allen Bell Economic Development Administrator stated he agrees and that is why they have gone through the extremes that they have in terms of financial due diligence and will continue to do that. Stated they have gotten to the point now where they believe with the adjustments they have made in the size of the project, that this is very likely a viable project and Staff can come to the Council at this time and ask to be allowed to proceed further on with it.
- Council Member Longwell Council Member Longwell asked what other costs are there to the City and understands that we are tying up some bond indebtedness but asked if there are any other costs to the City.
- Allen Bell Economic Development Administrator stated no and it is not cost so much as risk. Stated risk is by loading the property with additional taxes and it may become difficult for them if there is economic downturn or conditions deteriorate to be able to maintain the rents and occupancy necessary for these properties to be viable. Stated as long as they keep the buildings full and they can get decent market rents, then they will continue to pay their taxes and we will be fine. Stated it is that worst case scenario that bankers like to do that we have to look at as well in a situation like that.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 19

- Council Member Longwell Council Member Longwell stated it is his understanding to mitigate that risk, the developers are willing to put up about a \$15 million dollar building plus and would think that our liability on this is understood that it will be very mitigated by the fact that we are getting significant assets that are going to be put up.
- Ed Flentje Interim City Manager stated the magnitude of special assessment debt goes on the City's debt load and may have some modest impact on the ability to get good rates over time. Stated we have \$220 million in special assessment debt, so that is a big number and when rating agencies look at the City's debt capacity and debt affordability, every time you edge that up there might be a modest incremental effect on our bond ratings.
- Council Member Longwell Council Member Longwell stated he also would like to look into at some point in time how much bond indebtedness can we accumulate with our current mill levy and that is all part of that affordability that is going to mean something to him and the tax payers. Stated he wanted to make sure that he understands that the bottom line is that we are not asking for the tax payers per say to pay back this loan, it is the developer that is paying back and he is not getting any special tax exemptions because of that.
- Vice-Mayor Fearey Vice-Mayor Fearey stated it was mentioned that the City takes on some risk but the developers are taking on much risks. Stated she knows that this does add to our special assessment debt, which is \$220 million dollars, asked how much of that is for downtown?
- Kelly Carpenter Director of Finance stated as far as she knows we do not have a lot of special assessment debt downtown and most of it is for neighborhood improvement type debt. Stated that the few façade programs that we have done downtown are very small projects and would not consider those even a percentage point of that debt.
- Council Member Williams Council Member Williams inquired how this affects the neighborhood improvement piece.
- Kelly Carpenter Director of Finance stated it does not really affect the neighborhood improvements and when we do this debt affordability study we will look at debt per capita and when you look at debt per capita, you are going to add in special assessment debt, all of our GO debt, and all of the future debt that we are talking about we are going to issue such as airports, libraries, and anything else that is in the CIP. Stated she will be adding all of that together and there is going to be a break even point when the debt per capita is going to get too large. Stated regarding the mill levy, we want to make sure we can still finance all of our debt within the 10 mills that we currently have.
- Council Member Skelton Council Member Skelton stated this is a good thing for the City and does not have any problem with this item today but it is going to depend on the risk analysis. Stated we can use bonds for these types of things but also there are several outstanding infrastructure needs in the City right now and when it comes to expanding street maintenance overall for contract maintenance pot holes, cracks, etc., he has always advocated that we need more money there. Stated he thinks that we need to take all things into consideration when it comes to our bonding capacity.
- Mayor Brewer Mayor Brewer inquired whether anyone wished to be heard and no one appeared.
- Motion-- Williams moved that the use of up to twenty years special assessment financing for facade improvements to seven high-rise buildings in the downtown area, as requested by Real Development, subject to the satisfactory completion of the Facade Improvement Program procedures, including the filing of petitions, financial due diligence, legal review, approval and publication of bonding ordinance and design reviews be approved.
- Council Member Longwell Council Member Longwell stated he thinks this is a good project and fully understands the risk and thinks it helps that this developer is willing to put up significant assets to help mitigate that risk and recognizes that he is investing in our downtown community in a very big way. Stated he is wanting to look at all of the affordability study but supports this with what is in place right now as far as risk mitigation and the investment that he is making in our downtown and understanding that it is not taking anything away from our taxpayers. Stated they are not putting that load on them, the developers are paying that back and it does not come with tax exemptions or anything like that.
- carried Motion carried 7 to 0.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 20

RESOLUTION

APPROVAL OF THE RESOLUTION TO ALLOW WICHITA FESTIVALS, INC. TO GATE A. PRICE WOODARD PARK FOR RIVER FESTIVAL 2008. (DISTRICT I)

Doug Kupper

Director of Parks and Recreation reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Item No. 19.

Wichita Festivals, Inc. has requested permission to fence and charge admission at A. Price Woodard Park from May 9 through May 17, 2008, as part of the Wichita River Festival.

City Ordinance 9.04.060 permits the closing of the park for special events complying with the requirements of City Ordinance 3.11.080. The Wichita River Festival is also required to obtain appropriate approval of the event application specifying dates, times, locations and other pertinent data for events and activities conducted on public parks by the City Council of the City of Wichita pursuant to City Ordinance 3.14.020.

The resolution would allow A. Price Woodard Park to be fenced and allow admission to be charged for community events associated with the Wichita River Festival.

Quality of Life will be improved through having this event at A. Price Woodard Park.

The Law Department has reviewed the related resolution as to form.

Council Member Gray

Council Member Gray asked if this is something that will have to come back to the Council each year or can be just grant blanket authority for them to do this every year they have the River Festival.

Doug Kupper

Director of Parks and Recreation stated we have to do this every year, otherwise they would have to rewrite the ordinance and they do not want to do that and would rather handle this on a case by case basis.

Vice-Mayor Fearey

Vice-Mayor Fearey stated the Wake Fest was mentioned and asked if the ramps gone from the river yet.

Doug Kupper

Director of Parks and Recreation stated they were given until the 15th of this month, which is today to either get permission from the State to leave them in the river bed or they have to be removed today.

Gary Rebenstorf

Director of Law explained they wrote a letter to Mr. Eck a while ago informing him that the Agriculture Department of the State of Kansas has authority over the issue of those ramps remaining in the river. Stated they have not heard back from him so they sent another letter recently giving them today as the deadline to either do something or they would take them out. Stated he received an email from Tim Austin, who is representing Mr. Eck in this matter saying that they worked something out with the State and would have something for us right away. Stated it looks like the State is going to allow them to leave them in the river.

Vice-Mayor Fearey

Vice-Mayor Fearey stated we spent millions of dollars beautifying the river and because we gave permission for this last year we have these "things" in our downtown along the river walk and there is nothing we can do?

Gary Rebenstorf

Director of Law stated we do not have the authority to tell them to remove them.

Vice-Mayor Fearey

Vice-Mayor Fearey stated she wished the Council would have known because the Council could have decided if they wanted to write the State and say that we do not want them there when we have spent millions of dollars on beautifying the river.

Ed Flentje

Interim City Manager stated he feels we should follow up on this and contact the Kansas Department of Agriculture and see what is going on.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 21

Mayor Brewer

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

Motion--
--carried

Williams moved that the resolution to allow the gating of the event to be held at A. Price Woodard Park as part of the Wichita River Festival be adopted. Motion carried 7 to 0.

RESOLUTION NO. 08-031

A Resolution by the governing body of the City of Wichita, Kansas, approving closure of A. Price Woodard Park for the Wichita River Festival event, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

SECTION 11.52.020(25) REVISION OF SECTION 11.52.020 (25) RELATING TO ADA ACCESSIBLE PARKING.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Item No. 20.

For approximately 15 years, the City of Wichita has enforced provisions to its parking requirements that recognized the privileges granted to individuals with state-issued permits that allow parking in ADA accessible parking stalls. In large part, these privileges mirror those found in state statute. However, the language used by Council to define what constitutes an accessible parking space and adjoining accessible areas has always been broader and more accommodating than required by state law.

Under the language in the existing code, the potential exists for enforcement discrepancies since parking areas are expressly defined by City Council, yet also defined within the state statute incorporated explicitly by reference. The proposed code revisions resolve this ambiguity by expressly adopting the state statutory definitions as amended by the previously expressed City Code language.

None, the changes proposed will clarify the appropriate legal interpretation to be used when charging violations of the section.

The Department of Law has proposed this code revision, and drafted the implementing ordinance.

The proposed ordinance has a positive impact upon both the safe and secure and the quality of life goals. It enhances effective enforcement of parking regulations, and helps keep accessible parking spaces available for those who need them.

Mayor Brewer

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

Motion--
--carried

Skelton moved that the revision of Section 11.52.020 (25) of the City Code be approved and the ordinance placed on for first reading. Motion carried 7 to 0.

ORDINANCE

An ordinance amending section 11.52.020 (25) (a) (i) and (d) and creating section 11.52.020 (25) (k) of the code of the City of Wichita, Kansas pertaining to parking, introduced and under the rules laid over.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 22

PLANNING AGENDA

Motion--
--carried

Brewer moved that Planning Consent items 22 to 24 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

(Item 21)
CON2007-38

CON2007-38 – CONDITIONAL USE FOR AN ACCESSORY APARTMENT; GENERALLY LOCATED WEST OF 127TH STREET EAST AND NORTH OF DOUGLAS AVENUE, ON THE EAST SIDE OF JACKSON HEIGHTS STREET. (DISTRICT II)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 21.

MAPC Recommendations: Approve (12-0).

MAPD Staff Recommendations: Approve.

DAB II Recommendation: To be heard January 9, 2008.

The applicants are requesting a Conditional Use to allow an accessory apartment on Lot 16, Gilda's Gardens Addition, a 5-acre lot located at 200 N Jackson Heights Street. The applicants will live in their existing 16-foot (x) 76-foot manufactured home, while one of the couple's 77 & 79 year old parents will live in either a stick frame, modular or residential designed manufactured home. Because of the parents' age and medical conditions they require care. The subject site is zoned "SF-5" Single-family Residential. Because the proposed additional structure will contain a kitchen, bathroom and sleeping quarters, it is classified as a dwelling unit and thus requires a "Conditional Use" approval for an accessory apartment.

The immediate area is characterized by large lot/tract single-family residential development with "SF-5" zoning located on the north side of Douglas Avenue. The exceptions are five (5) "TF-3" Duplex-residential zoned (ZON2004-10) lots, abutting the south side of the subject site. The other exception is the applicants' residence, which is one of three mobile homes in the larger area between 127th Street East to Jackson Heights Street, north of Douglas, which staff found when driving the area.

The lots and tracts in the area generally range from 0.25–acres to over 4-acres with the houses on them having been built (GIS sampling) anywhere from the 1920s to 1980, with the majority having been built during the 1940s and 1950s. Materials used on the houses vary from brick, to brick and wood or composite siding, to wood or composite siding, or vinyl siding. Some of the larger lots, with houses on them, also have outbuildings on them, allowing these property owner's to keep their horses on their properties. The area also features lots of mature trees, landscaping and some mixed tree hedges. South of Douglas Avenue there is undeveloped, "SF-20" zoning, in a small isolated part of Sedgwick County, and a large manufactured housing park. The subject site is on Jackson Heights Street, a two-lane asphalt residential street with open ditches.

The site plan shows the applicants' residence, the proposed accessory apartment located in front of the existing residence, and a 30-foot (x) 50-foot pole barn. No size is given for the proposed accessory apartment. The applicants' manufactured home is registered with the Office of Central Inspection (OCI) as a legal nonconforming land use, a 'mobile home' on "SF-5" zoned property; a movable (not located on a permanent foundation) detached dwelling unit that was manufactured according to standards prior to 1976 or that does not conform to the Manufactured Home Construction and Safety Standards Act (HUD code), per Art II Sec II-B, 8(k) of the Unified Zoning Code.

The proposed accessory apartment will have to meet the standards for a conforming single-family residence, which include the UZC's 'residential-design manufactured home' standards, which is an upgrade to the applicants' legal non-conforming mobile home. Because the accessory apartment will have to meet the City's standards for a permanent single-family residence it will in fact become the primary residence, while the legal non conforming mobile home becomes a temporary accessory apartment, where the care givers/applicants will continue to live.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 23

The Unified Zoning Code's Conditional Use requirements for accessory apartments are as follows:

- (a) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium.
- (d) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

There was one speaker in opposition to the request at the MAPC meeting on October 18, 2007. The speaker's protest was in regards to the accessory apartment not having its own sewer and water and thus avoiding the cost of having a separate water and sewer system for the accessory apartment. The MAPC voted unanimously (12-0) to recommend approval of the Conditional Use, subject to the following conditions being completed within two (2) years:

- (1) The existing legal nonconforming mobile home shall become a temporary accessory apartment at the time that a stick frame house, a modular home or a residential designed manufactured home is placed on Lot 16, Gilda's Gardens Addition, a 5-acre lot located at 200 N Jackson Heights Street; the site. The stick frame house, modular home or residential designed manufactured home shall become the primary residence on the site and conform to Art. IV, Sec IV-D of the Unified Zoning Code (UZC) for residential design manufactured homes and shall comply with the all of the City's standards, permits and inspections for a permanent single-family residence. The appearance of the primary structure shall be compatible with the single-family residences of the neighborhood. The applicants have two-years to place a permanent primary residence on the site or the Conditional Use shall be considered null and void.
- (2) The primary structure and the temporary accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the UZC, for accessory apartments
- (3) A restrictive covenant will be recorded with the Register of Deeds that will state that the existing legal non conforming mobile home will be removed from the site within 90 days when care of the current applicants' parents is no longer required or ceases. This will end the Conditional Use for an accessory apartment.
- (4) The site will be generally developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to City water & sewer.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

During the subsequent two-week protest period following the MAPC meeting, Staff received two (2) protests, however only one was within the 200-foot protest area. Because of the protest the Conditional Use request must proceed to the Council for consideration and final action. The protest equals 28.09% of the total land area, which (because it is over 20% of the total land area) requires a $\frac{3}{4}$ majority vote by the Council to override neighborhood protest. The other protest has appeal standing. The protester gave no reason for their protest, while the neighbor with appeal standing thought that the applicant was trying to avoid the cost of having separate water and sewer systems for the accessory apartment.

At the November 20, 2007, Wichita City Council meeting, the Council deferred action on the Conditional Use request and directed that it be sent to the District Advisory Board (DAB) II's December meeting for their consideration, after which the request would then be sent back to Council for action on their first meeting in January 2008. Because there was not a quorum of the DAB members at the Monday, December 3, 2007, meeting, the DAB heard the Conditional Use request case, but did

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 24

not make a recommendation. The DAB's comment for all agenda items was that those items needing a recommendation be sent back to the DAB for consideration at their first meeting in January. No one spoke against the request at the DAB meeting.

Promote Economic Vitality and Affordable Living.

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

Motion--

Schlapp moved to concur with the findings of the MAPC and approve the Conditional Use, subject to its conditions including the voluntary restrictive covenant (requires a ¾ majority vote by the Council to override neighborhood protest). Motion carried 7 to 0.

--carried

RESOLUTION NO. 08-032

A Resolution authorizing a conditional use to permit an accessory apartment on 5-Acres zoned "SF-5" Single-Family residential, generally located west of 12th Street East, north of Douglas Avenue, on the east side of Jackson Heights Street in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Schlapp moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

DED2007-32

DED 2007-32-DEDICATION OF A UTILITY EASEMENT AND STREET IMPROVEMENT AGREEMENT LOCATED WEST OF SENECA AND NORTH OF 55TH STREET SOUTH. (DISTRICT IV)

Agenda Item No. 22.

Staff Recommendation: Accept the Dedication and approve the Agreement.

This Dedication and Street Improvement Agreement is associated with Lot Split Case No. SUB 2007-100 (Pippin Second Addition). The Dedication is for construction and maintenance of public utilities. The Street Improvement Agreement assures the City of Wichita that this property will be included in the paving improvements for 52nd Street South and that the owners have waived their right to protest said paving improvement.

Ensure Efficient Infrastructure.

The Dedication and Street Improvement Agreement will be recorded with the Register of Deeds.

Motion--

Brewer moved that the Dedication be accepted; the Agreement approved; and the necessary signatures authorized. Motion carried 7 to 0.

--carried

DED2007-37

DED 2007-37-DEDICATION OF A UTILITY EASEMENT LOCATED WEST OF WEST STREET AND SOUTH OF HARRY. (DISTRICT IV)

Agenda Item No. 23.

Staff Recommendation: Accept the Dedication.

This Dedication is associated with Lot Split Case No. SUB 2007-117 (Mayfield First Addition). The Dedication is for construction and maintenance of public utilities.

Ensure Efficient Infrastructure.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

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

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 25

A07-19R

A07-19R-REQUEST BY CORY SHACKELFORD OF LCS ENTERPRISES, INC. TO ANNEX LAND GENERALLY LOCATED EAST OF 143RD STREET EAST, BETWEEN PAWNEE ROAD AND HARRY STREET, (ISLAND ANNEXATION). (DISTRICT II)

Agenda Item No. 24.

The City received a request to annex 46.9 acres of land generally located east of 143rd Street East, between Pawnee Road and Harry Street. Since the subject property does not abut the City of Wichita, this is an island annexation request. On December 19, 2007, the Board of County Commissioners adopted Resolution No. 278-07, finding that the proposed annexation by the City will not hinder or prevent proper growth and development of the area or that of any other incorporated city located in Sedgwick County. Therefore, the finding is favorable to the City, and the City Council may proceed to give first reading of an ordinance annexing the requested property into the City of Wichita. The property owner anticipates that the proposed property will be developed as Cambria Addition, with 40 single-family homes within the next five years. A plat was submitted to the Metropolitan Area Planning Department and is currently under review.

Land Use and Zoning: The proposed annexation consists of approximately 46.9 acres of property currently zoned "SF-20" Single-Family Residential. Upon annexation, the "SF-20" Single-Family Residential zoning will convert to "SF-5" Single-Family Residential. Property directly to the north, east, south and west is primarily undeveloped, with only a few scattered homes, and is zoned "SF-20" Single-Family Residential.

Public Services: The closest water line is a 16" line that runs east, west and north at the intersection of Harry Street and 143rd Street East. A sewer main is currently in design to serve the subject property, as well as, other areas. It will be coming from an existing 18" main in the Whispering Lake Estates Addition to the northeast of the subject property.

Street System: The subject property borders 143rd Street East to the west, which is a paved, two-lane road. The City of Wichita Capital Improvement Program (CIP) 2007-2016, the Sedgwick County Capital Improvement Program 2008-2012 and the 2006 Transportation Improvement Program do not call for improvements adjacent to the proposed annexation site. Future improvements to 143rd Street East may be required as a condition of plat approval.

Public Safety: Fire services to this site can be provided by the City of Wichita within a seven (7) to eight (8) minute approximate response time from City Fire Station No. 6 and 38, located at 1010 North 143rd Street East. In addition, the City is currently in the process of designing a new Fire Station No. 20, which will be located at Kincaid and Greenwich Road. This new fire station would have about the same response time as Fire Station No. 6 and 38, but would serve as an additional resource to this area. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 South Edgemoor.

Parks: The WB Harrison Park, a 40-acre park, located approximately 3 miles northwest of the subject property and contains 2 tennis courts, a softball diamond, a rugby field, a children's play area with 3 benches, a restroom, a paved 0.75 mile exercise/fitness trail, a fishing pond and two parking areas, one paved and one unpaved. The Towne Park, a 4-acre park, located 3 1/2 miles to the southwest of the subject property and contains a children's play area, a paved, exercise/fitness trail and a pond with a deck.

School District: The annexation property is part of the Unified School District 259 (Wichita School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area, as shown in the Plan.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$8,300 with a total assessed value of \$2,490. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$78 in City annual tax revenues for the property. The future

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 26

assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that 40 single-family homes will be developed in the next five years. The total appraised value of this development after completion is estimated at \$14,000,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$50,564 in City annual tax revenues.

Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the effective delivery of municipal services in support of urban growth and development.

On November 20, 2007, as per K.S.A. 12-520c, the City Council adopted Resolution No. 07-657 requesting the Sedgwick County Board of County Commissioners to make a finding that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other city located within the County. On December 19, 2007, the Board of County Commissioners adopted Resolution No. 278-07, finding that the proposed annexation by the City will not hinder or prevent proper growth and development of the area or that of any other incorporated city located in Sedgwick County. Therefore, the finding is favorable to the City, and the City Council can proceed to give first reading of an ordinance annexing the requested property into the City of Wichita.

Motion--
--carried

Brewer moved that the annexation request be approved; the ordinance placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCE

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, introduced and under the rules laid over. (Island Annexation - A07-19)

AIRPORT AGENDA

Motion--
--carried

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

HOST INT'L

HOST INTERNATIONAL - S.A. NO. 5 - RESTAURANT AND CONCESSION OPERATIONS, WICHITA MID-CONTINENT AIRPORT.

Agenda Item No. 25.

The current concession agreement between the Wichita Airport Authority and Host International, Inc. ("HMS Host") to provide food, beverage, and news/gift shop services and concessions in the terminal building was entered into on February 5, 1990, and was extended by the Wichita Airport Authority on February 14, 2006 from April 30, 2006 to April 30, 2010.

This supplemental agreement adds space to Host's leasehold in the terminal building to construct a Bar and a Retail Wall Shop in the West Concourse. It also extends the term of the agreement through April 30, 2011. Effective May 1, 2011, the agreement may be automatically extended by the WAA in one-month intervals through the decommissioning of the current terminal building until December 31, 2011, unless Host consents to further extensions.

There are no financial impacts on the Airport with respect to costs; however, increased revenues are anticipated as a result of the improved concession sales expected to be generated by the new facilities, and through modification of the method by which the WAA's share of liquor sales are calculated.

The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which enhance services provided to the traveling public and allow the Airport to continue its operation on a self-sustaining basis.

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 27

The Law Department has approved the supplemental agreement as to form.

Motion--
--carried

Brewer moved that the Supplemental Agreement No. 5 be approved and the necessary signatures authorized. Motion carried 7 to 0.

CHANGE ORDER

WICHITA MID-CONTINENT AIRPORT, RUNWAY SHOULDER AND BLAST PAD REHABILITATION, CHANGE ORDER ONE.

Agenda Item No. 26.

On March 20, 2007, the Wichita Airport Authority approved a contract with Vance Brothers for rehabilitation of Runway 1L-19R, 1R-19L and the south 3000' of Taxiway D shoulders and blast pads.

A change order has been prepared to modify the contracted work and adjust quantities.

The change order amount of \$25,430.64 is a deduction from the original contracted amount of \$720,502.70, representing a reduction of approximately four percent.

The Airport's contribution to the economic vitality of Wichita is promoted through maintaining airfield pavements to serve the aviation community.

The change order has been approved as to form by the Law Department.

Motion--
--carried

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

CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

Vice-Mayor Fearey

Vice-Mayor Fearey requested that Dr. Tom Rosenberg be appointed as Tim Norton's appointment to the Wichita Airport Advisory Board and appoint Council Member Williams to the Criminal Justice Coordinating Committee instead of Council Member Skelton.

Motion--carried

Brewer moved that the appointments be made. Motion carried 7 to 0.

RECESS

EXECUTIVE SESSION

Motion--

--carried

Brewer moved that the City Council recess into Executive Session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, potential litigation, and legal advice and that the City Council return from Executive Session no earlier than 11:15 a. m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 7 to 0.

RECONVENE

The Council reconvened in the City Council Chambers at 11:15 a.m. Mayor Brewer announced that no action was needed or taken.

Motion--carried

Brewer moved to close the Executive Session. Motion carried 6 to 0, (Williams absent).

Motion--carried

Brewer moved that the regular meeting be adjourned. Motion carried 6 to 0, (Williams absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 191

JANUARY 15, 2008

PAGE 28

ADJOURNMENT

The meeting adjourned at 11:16 a.m.

Respectfully submitted,

Karen Sublett, CMC
City Clerk