

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, February 8, 2005
Tuesday, 9:13 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Patsy Ellis, Deputy City Clerk; present.

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

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

The Minutes of the February 1, 2005 meeting were approved 7 to 0.

AWARDS AND PROCLAMATIONS:

AWARD The HUD Door-Knocker Award was presented to the Housing Services Department.

PROCLAMATIONS No Proclamations were submitted.

PUBLIC AGENDA:

King David Davis Mr. Davis was not present.

CONSENT AGENDA

Motion-- Mayor Mayans moved that the Consent Agenda, except Item 3, be approved as recommended. Motion
--carried carried 7 to 0.

BOARD OF BIDS REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED FEBRUARY 7, 2005.

Bids were opened February 4, 2005, pursuant to advertisements published on:

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

2005 sanitary sewer reconstruction, Phase 2 - various locations from Maize to Rock, between 13th Street North and 27th Street South. (468-83956/620427/665547). (Districts I,II,III,V)

WB Carter Construction - \$446,131.00

Lateral 16, Main 19 Southwest Interceptor Sewer to serve Avalon Park Second Addition - north of 37th Street North, west of Tyler. (468-83748/744067/480755) Does not affect existing traffic. (District V)

Utility Contractors - \$114,567.00

Water distribution system to serve Avalon Park Second Addition - north of 37th Street North, west of Tyler. (448-89908/735203/470873) Does not affect existing traffic. (District V)

Duling Construction - \$37,504.00

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Pepper Ridge/Havenhurst from the north line of 37th Street North to the east line of Tyler Road; Havenhurst Court from the north line of Havenhurst and including the cul-de-sac; Sidewalk along the west and south sides of Pepper Ridge and the south side of Havenhurst, from the north line of 37th Street North to the east line of Tyler Road to serve Avalon Park Second Addition - north of 37th Street North, west of Tyler. (472-83899/765887/490998) Does not affect existing traffic. (District V)

Ritchie Paving - \$256,457.84

Pine Bay Street from the east line of Hydraulic Avenue to Madison Avenue; Madison Avenue from the south line of 63rd Street South to Pine Bay Street; Madison Court from the west line of Madison Avenue west to and including the cul-de-sac to serve Pine Bay Estates Addition - south of 63rd Street South, east of Hydraulic. (472-84034/765894/490007) Does not affect existing traffic. (District III)

Cornejo & Sons Construction - \$218,993.25

Water distribution system to serve Highland Springs Third Addition - south of Central, west of 135th Street West. (448-89828/735212/470882) Does not affect existing traffic. (District V)

Duling Construction - \$58,438.00

Water distribution system to serve The Waterfront 4th Addition - north of 13th Street North, east of Webb. (448-90019/735221/470891) Does not affect existing traffic. (District II)

McCullough Excavation - \$15,700.00

Lateral 48, Main 24 War Industries Sewer to serve The Waterfront 4th Addition - north of 13th Street North, east of Webb. (468-83918/744092/480780) Does not affect existing traffic. (District II)

McCullough Excavation - \$40,800.00

27th Street North, from the west line of Lot 1, Jackson Avenue in F.C McTaggart Addition to the middle of the intersection of 27th Street North and Jackson to serve FC McTaggart & North Court Additions - south of 29th Street North, west of Broadway. (472-83958/765868/490979); 27th Street North, from the west line of Wellington to the west line of Market to serve Montrose Park, Aley Park and North Lawn Additions - south of 29th Street North, west of Broadway. (472-83959/765871/490982); 27th Street North, from the middle of the intersection of 27th and Waco to the east line of Fairview to serve F.C. McTaggart's Addition and an Unplatted Tract - south of 29th Street North, west of Broadway. (472-83960/765870/490981); 27th Street North, from the middle of the intersection of 27th and Jackson to the middle of the intersection of 27th and Waco to serve F.C. McTaggart and North Court Additions, and an Unplatted Tract - south of 29th Street North, west of Broadway. (472-83961/765869/490980); Sanitary sewer replacement in 27th Street North from Market to Fairview to serve Montrose Park, Aley Park, and North Lawn Additions. - south of 29th Street North, west of Broadway. (468-83855/620413/664533) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Kansas Paving Company - \$310,231.10

Motion--

Mayans 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 and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

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LIBRARY DEPARTMENT: Frame Relay Data Communications Library.

Telcove - \$66,168.00 (Group 1/total net bid)

PUBLIC WORKS DEPARTMENT/STREET & FLEET MAINTENANCE DIVISIONS: Trailer mounted pressure applicator.

Paving Maintenance Supply Inc. – Awarded December 21, 2004*

*Order one (1) additional applicator at same unit cost of \$35,658.20 each

PARK DEPARTMENT/RECREATION DIVISION: Furnish and Install One (1) Landscape Structures Spacenet Model 3030/2 and one (1) Landscape Structures “The Rock” an Playground Borders, surfacing and Sidewalk connections.

Landscape Structures* - \$54,890.00 (Lump sum total/U.S. Communities

Contract #040377 – Playground Equipment)

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

Motion--
--carried

Mayans 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.

(Agenda Item 3) LICENSES

APPLICATION FOR LICENSE FOR ADULT ENTERTAINMENT ESTABLISHMENTS /SERVICES:

<u>Renewal</u>	<u>2005</u>	
Robert Floyd	Priscilla's	6413 West Kellogg

Motion--carried

Mayans moved that this Item be deferred. Motion carried 7 to 0.

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2005</u>	<u>(Consumption on Premises)</u>
Mana E. Remero	Angela's Café*	901 East Central
New Operator	2005	(Consumption off Premises)
Raisa Mirza	Rani Sm Inc.	731 North Ridge Road
New Operator	2005	(Consumption on Premises)
Mike Hayes	The Chug	5111 West 13th Street

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

Motion--
--carried

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

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PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) 2005 sanitary sewer rehabilitation, Phase A - between 21st Street North & Pawnee, and between Maize & Woodlawn. (468-83943/620425/665545) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III, IV, V, VI) - \$270,000
- b) Kessler Street from the north line of Kellogg Drive to the south line of Taft to serve Eureka Gardens of Maple, east of West Street. (472-84041/765891/490004) Traffic to be maintained during construction using flagpersons and barricades. (District IV) - \$159,840
- c) Traffic signals at 13th & Gateway Center, east of Greenwich. (472-83095/765850/490961) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$110,000
- d) Lateral 14, Main 6, Sanitary Sewer #23 to serve Woodlawn North Pointe Addition - south of 29th Street North, east of Woodlawn. (468-83901/744093/480781) Does not affect existing traffic. (District I) - \$91,000
- e) Water distribution system to serve Woodlawn North Pointe Addition - south of 29th Street North, east of Woodlawn. (448-90012/735222/470892) Does not affect existing traffic. (District I) - \$46,000
- f) Glenwood Court serving Lots 24 thru 33, Block 1 from the west line of Glenwood to and including the cul-de-sac; Reed's Cove from the east line of Reed's Cove Court to the west line of Glenwood; Sidewalk on both sides of Reed's Cove from the east line of Reed's Cove Court to the west line of Glenwood to serve Reed's Cove Addition - south of 21st Street North, east of 127th Street East. (472-83857 /765918 /490031) Does not affect existing traffic. (District II) - \$166,000
- g) Lark from the east line of the plat south to the north line of Hadden; Lark from the south line of Hadden south to the south line of the plat; Hadden from the east line of Lark east to the east line of the plat; Fieldcrest Street from the west line of Lark west to the west line of Lot 21, Block A; Atlanta Circle from the west line of Lark west to and including the cul-de-ac; Hadden Circle from the west line of Hadden west to and including the cul-de-sac; Sidewalk on Lark, Fieldcrest Street, and Hadden to serve Southern Ridge Second Addition - south of Pawnee, west of Maize. (472-84097/765917/490030) Does not affect existing traffic. (District IV) - \$353,000
- h) 2005 contract maintenance area concrete Street Repairs, Phase 1 - north of Pawnee, east of Seneca. (472-84147/132718/) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III) - \$260,050
- i) Hoover, from the south line of Elm to the north line of 9th Street North to serve Avery Barnett's and Patterson Gardens Additions – Hoover, north of Central. (472-83908/765845/490956) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$396,480
- j) Storm water Sewer #594 to serve Reed's Cove Addition – south of 21st Street North, east of 127th Street East. (468-83712/751387/485278) Does not affect existing traffic. (District II) - \$82,000

Motion--carried

Mayans moved that the Preliminary Estimates be approved. Motion carried 7 to 0.

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COST STATEMENTS AMENDED STATEMENTS OF COST:

- a) Improving Storm Water Drain No. 190, Part 1 to serve Hawthorne Addition (north of 21st Street North, east of 127th Street East). Total Cost - \$167,031.93 (plus idle fund interest - \$900.70, plus temporary note interest -\$3,138.37). Financing to be issued at this time - \$171,071.00. (751321/468-83516/485-212).
- b) Improving Storm Water Drain No. 190, Part 2 to serve Hawthorne Addition (north of 21st Street North, east of 127th Street East). Total Cost - \$476,803.73 (plus idle fund interest - \$2,577.02, plus temporary note interest -\$8,932.25). Financing to be issued at this time - \$488,313.00. (751380/468-83869/485-271).
- c) Improving Storm Water Drain No. 191, Part 1 to serve Hawthorne Addition (north of 21st Street North, east of 127th Street East). Total Cost - \$96,011.55 (plus idle fund interest - \$401.80, plus temporary note interest -\$1,113.65). Financing to be issued at this time - \$97,527.00. (751360/468-83517/485-251).
- d) Improving Storm Water Drain No. 191, Part 2 to serve Hawthorne Addition (north of 21st Street North, east of 127th Street East). Total Cost - \$52,049.31 (plus idle fund interest - \$220.04, plus temporary note interest -\$599.65). Financing to be issued at this time - \$52,869.00. (751381/468-83868/485-272).

Motion--carried Mayans moved that the Statements of Cost be received and filed. Motion carried 7 to 0.

DEEDS/EASEMENTS DEEDS AND EASEMENTS:

- a) Public Utility Easement dated December 18, 2004 from The Crew, a Kansas General Partnership, located over a portion of Lot 31 and Lot 32, Block 1, Shady Ridge Addition, an addition to Wichita, Sedgewick County, Kansas (OCA #607861) No cost to City.
- b) Drainage and Utility Easement dated January 24, 2005 from 13th Avenue Partners, L.L.C., located over a portion of Lot 12, Block 1, The Gateway Center Addition, an addition to Wichita, Sedgewick County, Kansas (OCA #607853) No Cost to City.

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

PETITION PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE LOTS 6 AND 7, BLOCK C, PROSPECT PARK ADDITION, NORTH OF MACARTHUR, EAST OF RIDGE. (DISTRICT IV)

Agenda Report No. 05-0085

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

The project will provide sanitary sewer service to two homes located north of MacArthur, east of Ridge.

The Petition totals \$23,060. The funding source is special assessments.

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

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

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RESOLUTION NO. 05-064

Resolution of findings of advisability and resolution authorizing construction of Lateral 506, Southwest Interceptor Sewer, (north of MacArthur, east of Ridge) 468-83953, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the city of Wichita, Kansas.

CLAIMS

REPORT ON CLAIMS ALLOWED - 2005:

<u>Name of Claimant</u>	<u>Amount</u>
Harris, Greg	\$81.52**
Independent Living Resource Center	\$220.19
Moore, Charles Steven	\$25.00
Posey, John Gene	\$1,690.19**
Spurgeon, Darold	\$312.19

**Settled for lesser amount than claimed.

Motion--carried

Mayans moved that the Report be received. Motion carried 7 to 0.

TRANSIT

FUNDING FOR PUBLIC TRANSPORTATION.

Agenda Report No. 05-0086

Each year the Federal Transit Administration (FTA) provides grant money for use in providing urban public transportation services. The amount of funding is based upon a complex formula involving miles driven, passenger rides provided, population area and density serviced, etc.

The 2000 census figures enlarged the service area for which the City of Wichita is allowed to seek funds to include all of Sedgwick County and other incorporated entities within the urbanized area (UZA). The City can request funds for public transportation services to enhance the programs of Sedgwick County and the urbanized area, and pass through those funds as determined by the formula. For FY 2005 the pass through funds will be for a total of \$136,250 of which Sedgwick County will receive \$122,950.00, Butler County will receive \$13,300. All figures are 80% federal and 20% matched by the receiving agency.

The City will have no part in operating these transportation programs. It will give guidance for the federal reporting required under the grant. By the attached interlocal agreements, the counties of Butler and Sedgwick will agree to adhere to all federal program requirements attached to the grant. The Law Department has prepared these agreements.

Motion--carried

Mayans moved that the interlocal agreements be approved. Motion carried 7 to 0.

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**CHILD CARE ASSN. RENEWAL OF LEASE WITH CHILD CARE ASSOCIATION WITH WICHITA.
(DISTRICT III)**

Agenda Report No. 05-0087

On August 24, 1999, the City Council approved a five-year lease with the Child Care Association of Wichita for a portion of the City-owned building at 1329 South Terrace (Hilltop recreation Center) with the remainder of the building dedicated to the recreation center. The lease called for monthly rent of \$1,300 per month with the tenant being responsible for all cleaning and minor repairs. The Association also was required to carry liability insurance. The City was responsible for all major repairs, utilities and taxes if applicable. The lease provided for a one-year option, which will end July 31, 2005. The Association has expressed a desire to extend the lease beyond this date. The Association utilizes the space for classrooms and programs associated with Head Start.

The new lease calls for an initial five-year term with monthly rent of \$1,450.00. This increases offsets historic increases in the City's costs and provides approximately the same net return as the City received in 1999. The Association is still responsible for all minor repairs, janitorial work and cleaning. The new lease makes the tenant responsible for any taxes levied against the property and requires that they carry insurance for their contents and leasehold improvements as well as liability. The lease allows for year-to-year extensions after the expiration of the initial term.

The City will receive a return on its initial investment in the building above its operating costs.

Motion--
--carried

Mayans moved that the Lease Agreement be approved and the necessary signatures authorized.
Motion carried 7 to 0.

**PROPERTY ACQ. ACQUISITION OF A PORTION OF THE NORTHEAST CORNER OF KELLOGG AND
ZELTA FOR THE EAST KELLOGG IMPROVEMENT PROJECT. (DISTRICT II)**

Agenda Report No. 05-0088

In October 1998, staff was instructed to pursue purchases on an opportunity basis or to preserve the corridor along East Kellogg to K-96. Corridor preservation occurs when development or redevelopment is planned in the corridor that will significantly impact future acquisition costs. The site at the northeast corner of Kellogg and Zelta is one such site. It was recently acquired and is currently being developed as an automobile repair facility. The planned expansion of Kellogg will require the south 40 feet of the site. An advance purchase of the needed right-of-way has been negotiated to ensure that the improvements will not be developed in such a way as to require acquisition when the highway project is initiated.

The area required for the highway totals 13,968 square feet. The owner has agreed to provide the required frontage to the City in exchange for a surplus City-owned parcel at the southwest corner of Kellogg and Hoover plus his costs to redesign the development to account for the right of way, \$13,275. The City-owned lot to be traded has approximately 25,000 square feet and is improved with a billboard. The billboard lease pays \$4,400 per year. The site has been offered for sale since 1994 and was included in the 2003 marketing program with a minimum price of \$75,000. The highest offer to date is \$62,850. The land the City is acquiring is located on the opposite side of the signalized intersection adjacent to the new WalMart/Loews retail center. Land on the south side of Kellogg has sold for \$10.00 to \$14.00 per square foot. Using the highest offer received on the City-owned parcel, \$62,850 plus the reimbursement of \$13,275 as the purchase price results in a total price to the City of \$76,125 or \$5.45 per square foot.

The Capital Improvement Program includes funds for acquisitions. The funding source will be local sales tax revenues. A budget of \$20,000 is requested. This includes \$13,275 for the reimbursement of the seller's costs, \$6,725 for closing costs, surveys and title insurance.

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The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the budget and the real estate purchase contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF PART OF 4944 & 4950 EAST CENTRAL FOR CENTRAL: OLIVER TO WOODLAWN. (DISTRICTS I AND II)

Agenda Report No. 05-0110

On November 4, 2003 City Council approved a project to improve Central, between Oliver and Woodlawn. The improvement plans call for partial acquisitions of seven parcels. One of the required parcels is located at 4944 & 4950 E. Central. The acquisition of 4944 & 4950 E. Central requires a 1,875 square foot strip of land. The property has two multi-tenant apartment buildings located on a 17,424 square foot site

The building improvements will not be impacted by this acquisition. The property owner of 4944 & 4950 E Central has agreed to accept \$14,615, \$13,125 for the acquisition; \$90 for the temporary easement and \$ 1,400 for proximity damages and fencing.

The funding source for the City share of the project is General Obligation Bonds with Federal monies. A budget of \$14,800 is requested. This includes \$14,615 for the acquisition and \$185 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget and Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF PART OF 5108 EAST CENTRAL FOR CENTRAL: OLIVER TO WOODLAWN. (DISTRICTS I AND II)

Agenda Report No. 05-0111

On November 4, 2003 City Council approved a project to improve Central, between Oliver and Woodlawn. The improvement plans call for partial acquisitions of seven parcels. One acquisition at 5108 E. Central requires a 750 square foot strip take of land. The property is a tenant occupied duplex situated on a 6,970 square foot site.

The property owner has agreed to accept \$5,310, \$5,250 for the acquisition and \$60 for the temporary easement. The building improvements will not be impacted by this acquisition.

The funding source for the City share of the project is General Obligation Bonds with Federal monies. A budget of \$5,450 is requested. This includes \$5,310 for the acquisition, and \$140 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget and Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

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CONTRAS/AGRMNTS. CONTRACTS & AGREEMENTS, PROFESSIONAL CONTRACTS UNDER \$25,000 AND ANNUAL MAINTENANCE CONTRACTS OVER \$25,000.

Motion--carried Mayans moved that the report be received and filed. Motion carried 7 to 0.

EXPENSE REPORT EXPENSES FOR SENIOR MANAGEMENT.

Motion--carried Mayans moved that the report be received and filed. Motion carried 7 to 0.

ASSESSMNT ROLLS PROPOSED ASSESSMENT ROLLS.

Proposed Assessment Rolls have been prepared for twenty-five (25) water projects twenty (20) sewer projects and seventeen (17) storm sewer projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held February 28, 205 at 11:00 a.m.

Motion--
--carried Mayans moved that the hearing on the Proposed Assessment Rolls be set for 9:30 a.m., Tuesday, March 8, 2005, and the City Clerk be directed to publish the notices of hearing at least once not less than 10 days prior to the date of the hearing. Motion carried 7 to 0.

BUS SHELTERS PROCUREMENT OF BUS SHELTERS AND BENCHES.

Agenda Report No. 04-0089

Wichita Transit has needed to update the fixed route passenger amenities that are offered for the citizens of Wichita. The old bus benches contain outdated advertisements and are not aesthetically pleasing to the city's landscape. There is also a need for more bus shelters to provide the needed comfort from the elements that will help increase ridership on Wichita Transit's fixed route system.

A large part of a successful Transit operation is not only offering the public a clean and safe bus to ride in, but also amenities for waiting for the buses to arrive. In 2002, Wichita Transit, with financial assistance from the Federal and State governments, replaced an aging bus fleet, with new more efficient and 100% ADA accessible buses. As a part of this improvement and the modernization of the City of Wichita's transit service, Wichita Transit applied and received federal funding to purchase new bus shelters and benches. Wichita Transit will purchase 21 (5' X 10') shelters and 10 (7' X 14') shelters and 255 (6') benches to be placed throughout the city in FY2005. WT also will have options to purchase within the next 5 years, up to 44 more shelters and 200 more benches. This will not only improve the comfort of Wichita Transit's customers, but will also offer a much more aesthetically pleasing service to the citizen's of Wichita.

The total cost of the project is \$340,807. The Federal portion is \$272,646 and the State of Kansas portion is \$68,161. There are no City of Wichita funds involved in this project.

The City's Law Department will review the contract prior to execution as to form.

Motion--
--carried Mayans moved that the selection of Duo-Gard Industries, Inc. for thirty-five (35) bus shelters and LNI Custom Manufacturing for two hundred and fifty-five (255) bus benches be approved. Motion carried 7 to 0.

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EMER. REPAIR

EMERGENCY REPAIR PROGRAM MODIFICATIONS.

Agenda Report No. 05-0090

The Housing and Community Services Department provides emergency home repair assistance for homeowners who are experiencing a housing emergency, which affects the health and safety of the residents. This CDBG-funded program provides assistance up to \$5,000 per year, per home, in the form of interest-free deferred loans which is payable upon transfer of ownership through sale or death of the homeowner. The property must be located in the City's Local Investment Areas and the household income of at least fifty-one (51%) percent of the total recipients of this program must not exceed the HUD Fiscal Year 2004 Low Income Limits for the applicable family size.

Many elderly homeowners who are in need of emergency repairs, are reluctant to take advantage of the City's program, because of the repayment provisions; they are reluctant to have a lien placed on their property which represents their only investment and legacy. However, many of those who take advantage of the program tend to rely on it to address issues, which result from lack of basic maintenance. These repeat users place a drain on the program resources.

As the City's housing stock continues to age and as efforts continue to preserve the City's central city neighborhoods, the need for emergency repairs expands outside the Local Investment Areas.

Housing and Community Services staff is proposing modifications to address the above concerns, effective with the July 1, 2005-June 30, 2006 fiscal year.

Staff recommends that the entire home repair loan (up to \$5,000) be forgiven after five years. The owner would have to occupy the property during this time.

Staff recommends that there be a limit of two emergency repair loans per structure, for the life of the structure. The Housing and Community Services Director would have authority to approve exceptions to this term limit, based on individual circumstances.

Staff recommends that the emergency home repair program be expanded to cover the entire city. The nature of this program is different from the City's other repair programs in that it is designed to respond to a specific situation. Disbursements do not automatically contribute to area revitalization because emergency needs do not follow neighborhood boundaries.

Staff recommends that the income eligibility criteria be reduced from 80% of the AMFI, to 50% of the AMFI. The current structure of the program limits recipients to the Local Investment Areas, in which all residents are presumed eligible based on the census tract data. Coverage of the entire city would require eligibility determinations based on the household income of the homeowners. Reduction of the service criteria to 50% of the AMFI, would ensure that the program serves the most needy and would offset the proposed service area expansion.

Housing and Community Services staff presented these recommendations to the Housing Advisory Board. The Board approved all recommendations by a unanimous vote at their November 16, 2004 meeting. The Board further recommended that the City Council direct that any repayments from loans made in the emergency home repair program, be automatically returned to the Housing Services Department, to address future emergency home repair needs.

Staff analysis projects a minimal impact on future income based on a repayment rate of less than 10% over the past six years.

CDBG regulations permit all proposed program changes. Other communities forgive all or part of home repair loans in similar programs. In addition, Regional HUD officials concur that these recommendations are allowable.

Motion--
--carried

Mayans moved that all proposed program changes to the Emergency Repair Program be approved.
Motion carried 7 to 0.

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LOAN HOME REPAIR DEFERRED LOAN HOME REPAIR PROGRAM MODIFICATIONS.

Agenda Report No. 05-0091

The Housing and Community Services Department provides home repair assistance for homeowners whose homes require complete rehabilitation. This program provides up to \$35,000 per home, and is funded through CDBG and HOME. The assistance is in the form of an interest-free deferred loan, payable upon transfer of ownership through sale or death of the homeowner. Heirs can inherit the debt, however, if they meet the original income qualifying criteria.

The property must be located in the City's Local Investment Areas and 51% of the persons assisted must have household income at 50% or below the Area Median Family Income (AMFI). Despite the improvements made through this home repair program, the property values rarely increase proportionately, primarily because of the location of the property within the Local Investment Area.

Housing and Community Services staff is proposing modifications to address the above concerns, effective with the July 1, 2005-June 30, 2006 program year.

Staff recommend that 50% of the deferred loan be forgiven at a rate of 10% per year as long as the homeowner remains in the home. The balance would be repayable according to the current loan provisions (upon sale or transfer of the property).

Housing and Community Services staff presented these recommendations to the Housing Advisory Board. The Board approved all recommendations by a unanimous vote at their November 16, 2004 meeting. The Board further recommended that the City Council direct that any repayments from loans made in the deferred loan home repair program, be automatically returned to the Housing Services Department, to address future home repair needs.

Staff analysis projects a minimal impact on future income based on a repayment rate of less than 10% over the past six years.

HOME and CDBG regulations permit all proposed program changes. Other communities forgive all or part of home repair loans in similar programs. In addition, Regional HUD officials concur that these recommendations are allowable.

Motion--
--carried

Mayans moved that all proposed program changes to the Deferred Loan Home Repair Program be approved. Motion carried 7 to 0.

HOMEOWNERSHIP HOMEOWNERSHIP 80 PROGRAM MODIFICATIONS.

Agenda Report No. 05-0092

The HOMEownership 80 program provides interest-free deferred loans for down payments, closing costs, and minor repairs to a home within the City's Redevelopment Incentives Area. The loan provided for the down payment and closing costs is secured with a mortgage, and is due and payable upon the sale of the home, default of the loan terms, or in the event the borrower refinances a first mortgage, unless a subordination agreement is provided. The loan provided for minor repairs is also secured by a mortgage, and is forgiven after a period of five years.

In recent years the City's homeownership program was targeted to lower-income neighborhoods and neighborhoods within the Redevelopment Incentives Area as part of the Neighborhood Revitalization Plan. Loan limits were increased to encourage participation in the program, to encourage participation to help the City realize its goals to revitalize and preserve older neighborhoods.

In an effort to enhance the City's partnership with homebuyers, Housing and Community Services staff is proposing modifications to the structure of its down payment and closing cost assistance loans, to be effective with the July 1, 2005-June 30, 2006 program year.

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Staff recommend that 50% of the down payment and closing costs provided to homebuyers, be forgiven after 10 years for new home purchases and after five years for existing home purchases. This proposal would not result in a direct cash payment to the homebuyer. Instead, it would reduce the amount of the City's loan if, after the forgiveness period, the homebuyer decides to refinance, pay off the loan or sell the property. This would provide additional encouragement for buyers who are supporting the City's goal of revitalization and preservation of older neighborhoods and would increase the buyer's equity in their home, which promotes stability. This is a strategy that is successfully applied in a number of other communities including Lawrence, Topeka, Johnson County and the State of Kansas homeownership program, where forgiveness policies range from 50% to 100% of the down payment assistance.

Housing and Community Services staff presented these recommendations to the Housing Advisory Board. The Board approved the recommendations at its January 11, 2005 meeting by a unanimous vote.

Staff analysis projects a minimal impact on loan repayments since forgiveness would not be a factor until after five years for existing homes and after 10 years for new homes. Additionally, under the current policy, staff anticipates a reduction in repayments because of the increasing number of new homes purchased with the down payment and closing cost assistance, and the higher long-term customer satisfaction levels which come with the purchase of new homes. (i.e. flexibility to construct for long-term needs, resulting in longer periods of owner retention).

HOME regulations permit all proposed program changes. In addition, Regional HUD officials concur that these recommendations are allowable.

Motion--
--carried

Mayans moved that all proposed program changes to the HOMEownership 80 Program be approved. Motion carried 7 to 0.

CESSNA AIRCRAFT

REDEMPTION OF AIRPORT FACILITIES REVENUE BONDS, CESSNA AIRCRAFT COMPANY. (DISTRICT IV)

Agenda Report No. 05-0093

On May 20, 1997, the City Council approved issuance of \$11,245,000 in Airport Facilities Refunding Revenue Bonds to Cessna Aircraft Company. The Bonds were issued to refund the Series II, 1990 Bonds. The 1990 bonds were used to construct and equip the 181,800 s.f. Citation Service Center, located at One Cessna Boulevard at the Wichita Mid-Continent Airport. The City of Wichita on January 24, 2005, received notice from Cessna Aircraft Company of its intent to redeem the Bonds on March 1, 2005.

In connection with the redemption and call, the company has asked that the City allow the Trustee to waive the 45-day notice period so that it can notice the call for March 1, 2005.

The City previously had outstanding its Airport Facilities Refunding Revenue Bonds, Series III 1997. The Bonds were issued and secured pursuant to the terms of a Trust Indenture. Cessna Aircraft Company subleased the Project to the City pursuant to a Sublease and Subordination Agreement. The City of Wichita received notice from Cessna of its intent to redeem on Bonds, pursuant to Section 301(a) of the Indenture. Upon receipt of Trustee certification that the bonds have been paid, the City will deliver the instruments needed to release the bond-financed property back to Cessna Aircraft Company and terminate the Sub-Lease.

The 1997 Bonds are being retired by Cessna as a result of the recent construction of the new Citation Service Center located at Mid-Continent Airport on south Hoover Road. The old Service Center is now being used as an aircraft manufacturing facility, and as such no longer qualifies for tax-exempt bond financing under the federal tax code.

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All costs connected with this redemption of the 1997 Bonds will be paid by Cessna Aircraft Co.

The City Attorney's Office has approved the form of the attached Resolution to authorize the execution of the Termination and Release of Sublease, Termination and Release of Sub-sublease, and the delivery of such other documents following satisfaction of applicable conditions.

Motion--

Mayans moved that the Resolution approving the Termination and Release of Sublease, Termination and Release of Sub-sublease, Cancellation, Discharge and Release of Indenture, and termination of all existing financing statements be adopted; the 45-day notice provision waived and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 05-065

A Resolution of the City of Wichita, Kansas authorizing redemption of Airport Facilities Refunding Bonds, Series III, 1997 (Cessna Citation Service Center Project); authorizing termination and release of the sublease and sublease of bond financed property; and authorizing the execution of all such other documents necessary to redeem said bonds, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ FEBRUARY 1, 2005)

- a) Acquisition by eminent domain of tracts required for Hillside improvement: Kellogg to Central. (District II)

ORDINANCE NO. 46-448

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of Hillside Avenue from Kellogg Avenue to Central Avenue in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- b) ZON2004-00060 - generally located north of Central, between Terrace and Pershing. (District I)

ORDINANCE NO. 46-449

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. (ZON2004-00060)

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- c) Fees for new applications and proceedings pertaining to signs.

ORDINANCE NO. 46-450

An Ordinance establishing Section 2.26.040 of the Code of the City of Wichita, Kansas, pertaining to fees and charges for planning applications and proceedings for sign code adjustments and special review approval for off-site billboard sign permits, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

UNFINISHED BUSINESS

SUPPORT OF ARTS

FUNDING SUPPORT FOR THE ARTS. (DEFERRED DECEMBER 21, 2004)

John D Angelo

City Arts Director reviewed the Item.

Agenda Report No.04-1239B

In 1994, the City Council and the Arts Council commissioned an independent study of the impact and potential of local arts and culture on the community, which resulted in the approval of the Wichita Community Cultural Plan. One of the goals of the Cultural Plan was to establish a funding mechanism that would encourage cultural resources to become active partners.

On March 16, 2004, the City Council approved the formation of the Arts Task Force, which was asked to accomplish the following and provide recommendations to the City Council:

- Study current funding support for the arts;
- Determine an equitable process for the City Council to evaluate requests for funding;
- Develop public and private funding options; and
- Designate the appropriate department in which the Division of Arts and Culture should reside.

At the December 14, 2004, City Council meeting, the Arts Task Force presented the Council with a process and funding option for allocating monies to local arts and cultural organizations.

At the December meeting, the City Council concurred with the process that was presented. However, there was considerable discussion on how to fund the process. Three funding options have been discussed.

Option 1 – The Council would resolve to annually allocate .76 mills for agencies currently receiving funding from the City. This mill levy would allow for some growth in funding for established and emerging organizations without increasing taxes. The funded agencies include: Wichita Art Museum, Botanica, Cowtown, Wichita/Sedgwick County Arts Council, Mid-America All-Indian Center, the Kansas African American Museum, and the Wichita/Sedgwick County Historical Museum. These organizations, with boards of directors, are non-profit agencies that have private/public partnerships with the City of Wichita.

Option 2 – Increase the transient guest tax by charter ordinance, and provide for the new increment to be used by Tier 2 and Tier 3 organizations. (One percent of this tax generates approximately \$750,000.) The Arts Task Force has recommended the following tiered system.

- Tier I - existing organizations currently receiving City funds or in-kind services from the City of Wichita's general fund. These organizations are Wichita Art Museum, Botanica, Cowtown, Mid-American Indian Center, Arts Council, Kansas African American Museum, and Wichita Sedgwick County Historical Museum. (Continue funding out of the general fund.)
- Tier II – established and emerging organizations with annual operating budgets of \$500,000 or more.

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· Tier III – established or emerging organizations with annual operating budgets less than \$500,000.

Because this alternative would involve a charter ordinance, it alternative would require the 2/3 approval by Council, and the publication and protest period applicable to charter ordinances. The organizations that are currently funded by the City would continue to be funded out of the general fund. They include Arts Council, the Wichita Art Museum, Botanica, Cowtown, Mid-America All-Indian Center, the Kansas African American Museum, and the Wichita-Sedgwick County Historical Museum. The guest tax would be used to fund established and emerging organizations.

Option 3 - Continue the status quo and fund/support arts and cultural organizations out of the general fund. Many more organizations beyond those currently funded will probably seek funding from the City Council.

Staff is recommending that regardless of the funding option selected by the City Council, the policy is to utilize the Arts Council Review Committee to review all funding requests and make recommendations to the City Manager and ultimately to the City Council for approval.

Additionally with any alternative selected by the Council staff will work with the Finance Department to combine all arts and cultural expenditures into one non-department budget to be supplemented by a separate budget report that details all operating, maintenance and debt management expenses for the funded organizations.

The Arts Task Force recommends that the Review Committee should consist of seven representatives. Those representatives would be chosen by the Arts Council with City Council approval from the following categories: government, business, philanthropic organizations, education, arts and the public, and interested individuals. At the January 11, 2005 workshop City Council members suggested that that number be increased to 11 individuals to allow appointments from each district in the categories suggested by the Arts Task Force.

For Option 1 - dedicate 0.76 mills with the intent of allocating the funds to support arts and cultural organizations and their facilities. Option 2; increase the transient guest tax. Option 3 - continue to fund current and additional organizations out of the general fund annually.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Eric Engstrom

Mr. Engstrom, president of the Wichita Art Museum, Inc. Board stated that the Staff of the Art Museum had asked him to make a statement on their behalf. Stated that they are all sincerely appreciative of the support the City has provided the Institution for nearly 70 years and that the museum would not be the outstanding institution it is today without the generosity and commitment of the City. On behalf of the board, would say that we approach this new arrangement with some trepidation. Stated that they believe the general purpose is laudable, especially if it results in increased revenues available for the various stellar organizations that this City possesses.

Mayor Mayans

Mayor Mayans stated that there was a consultant, Alf Nucifora, that was brought in to look at the City, and one of the Items he looked at was the support of the arts. Stated that he was asked what he thought was the best element of funding and he said that he would be adamantly opposed to funding peripheral ventures from room taxes because the precedent establishes that it allows those funds to subject to the entreaties of any worthwhile claimants and the room process should be used to support the marketing of the City and that it is not a real good funding source for that. Stated that he believes that the Council should earmark the mill levy, and would like to propose that to take Option 1 and earmark the mill levy for one year. Stated that we can always come back and change this twelve months from now. Stated that he would like to see if there is support for one mill instead of .76, and that this be done for one year and then see if this funding source in this amount will be adequate or not.

Mayor Mayans

Mayor Mayans feels the funding would have to be matched with private dollars and that could be one of the recommendations made to those making the determinations.

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- Council Member Schlapp Council Member Schlapp feels that there is power in numbers and that if a group of organizations were to come together and work together and go to funding organizations and utilize the power of the group. Asked why can we not form this group that is willing to say, "we're going to go to the Federal Government" and be united and say that we need to bring a certain amount of dollars to this community and then put it into the process somehow.
- Mayor Mayans Mayor Mayans agreed with Council Member Schlapp and stated that is something that can be evaluated over the next 12 months.
- Council Member Martz Council Member Martz stated that he is also very supportive, but the challenge that he is having is that this is a two-issue thing, not a one-issue. Stated that making this presented as a package almost gives you the feeling that if I vote against it, that I am voting against the whole thing and that is not the case. Stated that he feels like maybe step one is the organizational thing where we do the review and how people apply for monies and that the second is the funding of it. Stated that he has no problem with the way the tier structure is and that the organization is good and supports bringing everyone in. Stated that he would like to see it broken out into one step and how we fund it as the second step, because he is having a struggle with the funding portion. Referred back to a report received October 21, 2003, in which this Council formed an alternative revenue task force report. Stated that this was relating more to recreation in the park department. Stated that there is a similarity in that it was a specific area and this is a specific type of area. Stated that he feels part of what that report came out with does carryover here, and back in the attachment where they have recommended revenue policies, that one of the bullets they have is to minimize dedicated sources of revenue, which restrict the flexibility of the governing body and this is one of the reasons he is opposed to dedicating a mill level and he believes it is restrictive. Stated that he does not want our hands to be locked by saying .76 mill or one mill, until we have fully identified what we need to fund it. Stated that it does not give us a growth factor. Questions what we are taking out that is currently funded in order to fund the arts and that has not been identified. Would prefer option 3 for the time being until we really get a handle on what we are funding, and then look at whether we need to go a dedication.
- Council Member Gray Council Member Gray feels that this is being pitched to us as arts and that this is all of it and that it is all inclusive, and it is not. States that he and Council Member Martz put this into an all inclusive, make it into an enterprise fund, where all the funding is itemized including the maintenance because it can have a maintenance charge just like everything else in the City has an IT charge. Stated that he likes the tier system and board is set, but feels it is step one, and that we need to take it a little further.
- Council Member Fearey Council Member Fearey questions Century Two being in there and that we have the Sport Boat and Travel Show at Century Two, and that does not feel that is art. States Century Two is a building and it does all types of things and does not think it should be included. Would like to do for one year and see how it works as suggested by the Mayor. During that year, if that is what we do, would like to see the County and City work together on some of these and feels it makes more sense for the county to fund and some for the City to fund instead of both of us giving a little bit to them.
- Council Member Schlapp Council Member Schlapp states she would also like to see this put into one package where we could make a good overall decision on how we are doing this.
- George Kolb City Manager stated that he believes we are very conscious of the problem and the issue of identifying where money is going for the arts program and trying to identify a source. Stated that we have throughout the entire budget, the general fund, our capital improvement fund, enterprise funds, monies that are going for what we are discussing today in terms of arts. It is going to take an effort for us to pull that together in a category. Stated that from a budgeting standpoint we can prepare reports for the Council that will identify and isolate where those dollars are going, and we can also categorize, in terms of which organizations would receive that, for example, private museums that have private boards as opposed to City owned facilities; and we will try and break that out. Suggests from a reporting point of view that we will try and do that during the budget process. From a budgeting and actual accounting point of view, it is going to be a little bit difficult on an ongoing basis, because of the various categories. Stated that it has been suggested that we create an enterprise fund, but that he believes that our accounting rules, etc., in terms of trying a dedicated source other than the general fund would prohibit us from creating an enterprise fund and that an enterprise fund has to be self-sustaining at least

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in concept. Stated that we will prepare a special report that will identify the sources of funds and where those funds go so that you get a general idea of where it is going.

Council Member Lambke Council Member Lambke asked how many new organizations are going to come forward and justify their existence and that his preference is to use a guest tax and would favor Option Three.

Motion-- Mayor Mayans moved that Option One with a tier system of funding an eleven member committee, dedicate one mill for one year and that Staff prepare and include on the budget process an itemized list of all the funding invested in the arts and cultural resources be approved.

Council Member Martz Council Member Martz stated that he was going to oppose this, because he doesn't think one mill is adequate and believes it is too restrictive for what we want.

carried Motion carried 5 to 2; (Lambke and Martz, no)

NEW BUSINESS

AMER. BAPTIST ESTS. PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS, AMERICAN BAPTIST ESTATES. (DISTRICT IV)

Allen Bell Director of Economic Development reviewed the Item.

Agenda Report No. 05-0094

On December 21, 2004, City Council approved a Letter of Intent to issue Industrial Revenue Bonds for American Baptist Estates in the amount of \$1,325,000. The proceeds of the proposed bond issue will be used to build five additional duplex buildings, located at 1605 May Street in southwest Wichita. American Baptist Estates is requesting the issuance of IRBs at this time, in the amount of \$1,225,000.

American Baptist Estates d/b/a Prairie Homestead is a Kansas not-for-profit corporation formed in 1963 to provide a continuing care retirement community for older adults. The original development of Prairie Homestead was developed in 1966. Prairie Homestead provides housing accommodations and care for older adults especially designed to meet their physical, social and spiritual needs. The project offers 168 apartments and accommodates single or double occupancy. The units range from 279 to 1072 square feet. Prairie Homestead provides health care services that includes nursing services through scheduled clinics, 24 hour nursing care, and a multitude of therapies. Prairie Homestead also provides dining services, weekly basic housekeeping, security and safety features, numerous in-house social activities, and scheduled transportation.

The proposed expansion will include five additional duplex buildings, which will provide 10 new independent living units to the complex.

An estimated analysis of the sources and uses of project funds is:

SOURCES OF FUNDS

2005 Bond Issue	\$1,225,000
Funds from Tenant	<u>29,000</u>
Total Sources of Funds	\$1,254,000

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USES OF FUNDS

Construction Costs	\$1,200,000
Underwriting Fee (2%)	24,500
Bond Counsel Fee/Underwriter Counsel	21,000
Tenant's Counsel Fee	1,500
Printing & Publications	2,500
Misc.	2,500
Trustee Fees	<u>2,000</u>
Total Uses of Funds	\$1,254,000

The firm of Hinkle Elkouri Law Firm, L.L.C., serves as bond counsel in the transaction. Riedl First Securities Company of Kansas has agreed to underwrite the bonds. American Baptist is working with W.S.U. to carry out a cost-benefit analysis on the expansion project. The results will be presented at the time this item is considered by the City Council.

American Baptist agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. American Baptist does not request property tax abatement in conjunction with the IRBs. Sales tax exemption on purchase of bond-financed property will save American Baptist an estimated \$53,000, including \$8,500 in county sales tax. American Baptist is not seeking property tax abatement through the issuance of IRBs.

Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The City's Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds. American Baptist Estates is eligible under the new Economic Development incentive policy since they provide affordable housing for senior residents, as well as health care services.

Mayor Mayans

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

Motion --

Gray moved that the public hearing be closed; the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount of \$1,225,000, be placed on first reading; the necessary signatures be authorized; and Staff authorized to cooperate with American Baptist Estates in their application for a property tax exemption as a not-for-profit organization. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas to issue its Health Care Facilities Revenue Bonds, Series I, 2005 (American Baptist Estates, Inc.) in the aggregate principal amount of \$1,225,000 for the purpose of providing funds to acquire, construct and equip five new residential duplex buildings to be used as part of an existing continuing care retirement facility and to pay certain costs of issuance; prescribing the form and authorizing execution of a Trust Indenture between the City and UMB Bank, N.A., Wichita, Kansas, as Trustee; prescribing the form and authorizing execution of a Lease Agreement by and between the City and American Baptist Estates, Inc.; approving the form of a Guaranty Agreement between American Baptist Estates, Inc., as Guarantor, and the Trustee; prescribing the form and authorizing the execution of a Bond Purchase Agreement between the City, American Baptist Estates, Inc, and Riedl First Securities Company of Kansas, Inc., Wichita, Kansas, as purchaser of the Series I, 2005 bonds, introduced and under the rules laid over..

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DELTA DENTAL

PUBLIC HEARING AND REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, DELTA DATA SYSTEMS, INC. (DISTRICT II)

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 05-0095

Delta Data Systems Inc. is requesting the issuance of a one-year letter of intent for Industrial Revenue Bonds ("IRBs") in an amount not to exceed \$9,000,000. Bond proceeds will be used to finance the cost of acquiring, constructing and equipping a corporate headquarters facility to be leased to Delta Data Systems, Inc. Delta Data Systems is also requesting the City Council's approval of a 90% five-year tax exemption on IRB-financed property and a second five-year exemption subject to City Council review and approval. The new facility will be located in the Waterfront Addition at 13th & Webb. Delta Data Systems will sublease the project to Delta Dental Plan of Kansas, Inc. ("Delta Dental").

Delta Data Systems, Inc. is a for-profit Kansas corporation founded in 1987 to provide computer software products and support services to dental insurance carriers and to serve as owner and landlord for the Wichita headquarters of its shareholder, Delta Dental Plan of Kansas, Inc. Delta Dental was founded in 1972 and is the oldest and largest dental benefits carrier in the State. Delta Dental is a member of the Delta Dental Plans Association, a nationwide network of dental service corporations. The company provides dental benefits to more than 45 million subscribers and their family members in the United States. Delta Dental working closely with participating dentist networks, provides dental benefit plans to organizations and individual employers in the State of Kansas, and through a national program for businesses and employees known as DeltaUSA, provides dental benefits to businesses and organizations with employees in multiple states.

Delta Data Systems proposes to construct and equip a new two-story corporate headquarters building, consisting of approximately 40,000 s.f., including sufficient parking to accommodate a growing staff and guests. Delta Dental has demonstrated continued growth throughout its 32-year history and is in need of new and larger office facilities. As a statewide insurance carrier, Delta Dental could locate its Kansas headquarters anywhere in the state. Delta Dental currently employs 84 people, including 76 in Wichita, and plans to add 21 new jobs over a five-year period, at an average annual salary of \$40,813.

An analysis of the uses of project funds is:

Land	\$1,800,000
Building	6,250,000
Furniture, Fixtures and <u>Equipment</u>	<u>950,000</u>

Total Cost of Project: \$9,000,000

The firm Hinkle Elkouri L.L.C. will serve as bond counsel in the transaction. The Company plans to privately place the bonds with a financial institution and the bonds will not be re-offered to the public. The Company agrees to comply with the City's requirements contained in the Letter of Intent. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City	1.34 to one
County	1.24 to one
USD 259	1.22 to one
State	3.12 to one

The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Business Incentive Policy, the Company qualifies for a 90% five-plus-five-year tax exemption on property purchased with bond proceeds, based on creation of 21 new jobs, investment of \$9 million and average wages that exceed the average for this type of business.

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The estimated first year's taxes on Delta Data's proposed \$9,000,000 expansion would be \$177,000, on real property improvements and \$23,000 on personal property, based on the 2004 mill levy. Using the allowable tax exemption of 90 percent, the City would be exempting (for the first year) \$180,000 of new taxes from the real and personal property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$50,000; County/State - \$48,000; and USD 259 - \$82,000.

In addition, the project will qualify for a sales tax exemption on bond-financed purchases. The estimated savings from exempted sales taxes are \$315,000.

Bond documents needed for the issuance of bonds will be prepared by the City's bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Mayor Mayans

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

Motion--

Schlapp moved that the public hearing be closed; a Letter of Intent to Delta Data Systems, Inc. for Industrial Revenue Bonds in an amount not-to-exceed \$9,000,000, subject to the Letter of Intent conditions, for a term of one-year, approve a 90% tax abatement on all bond-financed property except land for an initial five-year period plus an additional five years following City Council review approved; and the application for a sales tax exemption on bond-financed property authorized. Motion carried 7 to 0.

--carried

PRAIRIE VILLA

REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, PRAIRIE VILLA AT BEACON HILL, L.C. (DISTRICT I)

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 05-0096

Prairie Villa at Beacon Hill, L.C. ("Prairie Villa") is requesting City Council approval of a one-year Letter of Intent for the issuance of Industrial Revenue Bonds in an amount of \$4,700,000. The proceeds of the proposed bond will be used to finance the cost of acquiring, constructing and equipping a senior apartment facility to be located at 2395 North Beacon Hill Street in northeast Wichita. The developer is also requesting a sales tax exemption on all bond-financed purchases.

Prairie Villa is an asset limited liability company in that the main principals have been engaged in the federal tax credit program for over ten years and have developed and owned in excess of over twenty projects in the State of Kansas. Prairie Villa is a senior duplex apartment facility that will include thirty duplexes containing 60 energy efficient 2-bedroom units each with an attached garage. The complex will provide a community clubhouse, gazebo, and walking paths for residents as well as generous green area.

The proposed project is adjacent to the Prairie Villa retirement complex located at 5400 E. 21st Street, which is also owned by the principals of Prairie Villa at Beacon Hill, and which consists of 15 patio home buildings that includes 45 senior apartment units. The expansion will include five additional duplex buildings and provide funds to continue to remodel and up-date existing units.

An estimated analysis of the uses of project funds is:

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USES OF FUNDS

Construction Costs \$4,700,000

Total Project Costs \$4,700,000

The firm of Hinkle Elkouri Law Firm, L.L.C., will serve as bond counsel in the transaction. Bonds will be privately placed with a construction lender selected by the applicant. Prairie Villa agrees to comply with the City's requirements contained in the Letter of Intent. Prairie Villa is working with W.S.U. to carry out a cost-benefit analysis on the expansion project. The results will be presented at the time this item is considered by the City Council.

Prairie Villa agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Prairie Villa does not request a property tax abatement in conjunction with the IRBs. Sales tax exemption on purchase of bond-financed property will save Prairie Villa an estimated \$150,000. The developer has offered to share the sales tax savings with the City by paying an additional up-front fee of \$20,000.

Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The City's Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds. Prairie Villa at Beacon Hill is eligible under the new Economic Development incentive policy since they provide affordable housing for senior residents.

Mayor Mayans

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

Motion--

Brewer moved that the Letter of Intent to Prairie Villa at Beacon Hill, L.C. for Industrial Revenue Bonds in an amount of \$4,700,000, subject to the Letter of Intent conditions, for a one-year term be approved and the application for a sales tax exemption on bond-financed purchases be authorized.

--carried

Motion carried 7 to 0.

WATER FEE

CLEAN DRINKING WATER FEE - EXERCISE THE OPTION TO PAY.

Dave Warren

Water and Sewer Director

Agenda Report No. 05-0097

In 2001, the Water Utility chose to opt out of paying the Clean Drinking Water Fee, which is a payment, water utilities may choose to make in lieu of paying sales tax on non-exempt purchases. The fee is equal to three cents for every one thousand gallons of water the utility sells at retail. K.S.A. 82a-2101 established the option in 2001, and water utilities were given a one-time, irrevocable option to either pay the fee, or not pay the fee.

Following a financial analysis, the City chose to opt out of paying the fee and to continue paying sales tax on non-exempt purchases. The financial analysis indicated that the impact on the Water Utility of choosing to pay the fee or not was virtually a wash. Also, there were considerable misgivings concerning a "pass through" provision of the statute, which essentially stated that that utilities could not pass the cost of the Clean Drinking Water Fee on to customers.

In this state, 825 utilities chose to ignore this stricter interpretation of the statute, choosing instead to interpret the intent as being that the utility simply could not include the fee as an item on the bill. Eighty-five (85) utilities chose to join Wichita in opting out of paying the Clean Drinking Water Fee; however, this did not include any of the larger metropolitan areas in the state.

The Water Utility has been audited twice by the Kansas Department of Revenue in the last ten years. Sales tax on non-exempt purchases has been a primary focus of the audits and the general trend seems to be a more aggressive stance in terms of the scope of items subject to taxation.

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In 2004, the Kansas Legislature amended K.S. A. 82a-2101 with the passage of Senate Bill 147. This afforded the state's water utilities the opportunity to opt in to pay the Clean Drinking Water Fee anytime after January 1, 2005. Under the terms of the legislation, the decision to pay the fee is once again irrevocable.

Recent financial analysis indicates that choosing to pay the Clean Drinking Water Fee would result in annual savings to the Water Utility of approximately \$400,000 and avoid a potential tax liability for the City of \$265,000 on services used by the Water Utility. Financial advantages of paying the fee have increased since 2001, owing to a higher level of taxability of expenditures for capital projects. The possibility exists that the advantages of paying the fee will further increase if the KDOR chooses to apply more expansive interpretations of taxes on non-exempt purchases.

There is a projected savings to the Water Utility of approximately \$400,000 annually, associated with the decision to pay the Clean Drinking Water Fee. This savings would increase with an approval of the additional one-percent (1%) tax for the downtown arena.

Coincident with the decision to opt to pay the Clean Drinking Water Fee, the City has included the pass through issue in the City's Legislative Agenda. The City is requesting legislation that would clarify the intent of the statute by stating explicitly that utilities "shall not include a separately stated line or item showing the amount of such fee."

This would mitigate the possibility of a class action lawsuit challenging the intent of the statute and requiring that the Clean Drinking Water Fee not be included in the rate base of the utility.

Mayor Mayans

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

Motion--
--carried

Mayans moved that the application of the Water Utility to opt in to pay the Clean Drinking Water Fee effective April 1, 2005 be approved. Motion carried 7 to 0.

HARRY/LONGFORD IMPROVEMENT TO THE INTERSECTION OF HARRY AND LONGFORD. (DISTRICT II)

Jim Armour

Acting City Engineer, Public Works Department, reviewed the Item.

Agenda Report No. 05-0098

The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve the intersection of Harry and Longford. District II Advisory Board sponsored a July 12, 2004, neighborhood hearing on the project. The Board voted 7 – 0 to recommend approval of the project.

The project will provide turn lanes on Harry to Longford. Construction is planned for 2005.

The estimated project cost is \$200,000 with the total paid by the City. The funding source is General Obligation Bonds.

Mayor Mayans

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

Motion--
--carried

Schlapp moved that the project be approved; the Ordinance be placed on first reading; and the signing of State/Federal Agreements as required be approved. Motion carried 7 to 0.

ORDINANCE

An Ordinance declaring the intersection of Harry at Longford (472-83998) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

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TYLER/YOSEMITE IMPROVEMENT TO THE INTERSECTION OF TYLER AND YOSEMITE. (DISTRICT IV)

Jim Armour Acting City Engineer, Public Works Department, reviewed the Item.

Agenda Report No. 05-0099

The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve the intersection of Tyler at Yosemite. District IV Advisory Board sponsored a December 1, 2004, neighborhood hearing on the project. The Board voted 9 – 0 to recommend approval of the project.

The project will provide turn lanes on Tyler to Yosemite. Construction is planned for 2006.

The estimated project cost is \$530,000 with \$150,000 paid by the City and \$380,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.

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

Motion-- Gray moved that the project be approved; the Ordinance placed on first reading and the signing of State/Federal agreements as required authorized. Motion carried 7 to 0.
--carried

ORDINANCE

An Ordinance declaring the intersection of Tyler and Yosemite (472-84176) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

AMUSEMENT PARKS/ ORDINANCE AMENDMENTS PERTAINING TO AMUSEMENT PARK AND RIDES. **RIDES**

Gary Rebenstorf Director of Law reviewed the Item.

Agenda Report No. 05-0100

The City Council conducted two workshops regarding the regulation of amusement park rides and directed the City Attorney to prepare an ordinance to address safety and licensing concerns.

The amendments expand the existing ordinances to include portable and inflatable rides. One million dollar (\$1,000,000) insurance policies are required for amusement parks and portable amusement rides. This amount is in compliance with State statutes. Such policies are required to be issued by companies approved by the Kansas Insurance Commissioner.

Licensees are required to submit bi-yearly inspections of rides performed by their insurance companies. Licensees are required to notify the City of accidents and any changes to insurance coverage. The Superintendent of Central Inspection and Director of the Health Department are authorized to inspect the premises and ride devices to insure that safety requirements are met.

License fees range from \$300 every six months for amusement parks to \$10.50 per week, \$20 per month and \$50 every six months for portable amusement rides.

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

Motion--carried Mayans moved that the ordinance be placed on first reading. Motion carried 7 to 0.

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ORDINANCE

An Ordinance amending Sections 3.20.010, 3.20.020, 3.20.030 and 3.20.040, creating Sections 3.20.035, 3.20.050, 3.20.060, 3.20.070, and 3.20.080 of the Code of the City of Wichita, Kansas, pertaining to amusement parks and rides and repealing the originals of sections 3.20.010, 3.20.020, 3.20.030 and 3.20.030 of the Code of the City of Wichita, introduced and under the rules laid over.

WIRELESS

WIRELESS NETWORK SITE SURVEY AND INITIAL SYSTEM DESIGN.

Kirk Swilley

Director of IT/IS reviewed the Item.

Agenda Report No. 05-0101

In December 2002, the City, Sedgwick County and KDOT entered into a project to study the feasibility of AVL and to consider how to supply wireless data connectivity. From this initial study an RFP for engineering design services to create a wireless network for the City of Wichita was issued.

By providing wireless data connectivity it will be possible to implement a wide array of technologies and processes to improve operational efficiencies, customer service and public safety. Examples of this might include Automated Vehicle Location, direct access to systems and information from the field such as inspection requests, building diagrams, Police records, etc., issuance of work orders directly to field work crews, and camera images relayed in real time to command centers or Public Safety laptops. In addition this network would replace leased data circuits for savings of over \$85,000 per year. This network is required for the implementation of many aspects of the Intelligent Transportation Systems (ITS) that are envisioned for this region.

An RFP was issued in spring of 2004 requesting engineering design services for the creation of a wireless data network. The responses included an initial network design and cost estimate. The selection committee consisted of members from Transit, Finance and IT/IS. Computer Sciences Corporation (CSC) was identified as the highest rated firm to build a wireless network for the City of Wichita.

During this process IT/IS staff has sought to build a consortium for this project that includes USD 259, Sedgwick County and Westar Energy. These consortium partners can help to reduce the costs of building and maintaining the network either by direct payment or by providing resources such as radio towers and staff.

The project for which permission is sought is an engineering design study to refine the initial design provided by CSC in their RFP response and would provide a detailed design, work plan, and cost estimates for construction and maintenance of the final system. The study will take into account the needs and resources of USD 259, Sedgwick County and Westar Energy as well as those of the City of Wichita with the understanding that should these other entities choose to participate in the building of the network they would repay their portion of the design costs.

The IT/IS Advisory Board has approved this plan and recommendation.

The cost of the agreement with CSC will not exceed \$300,000 including travel and expenses. The funding for the site survey and system design will come from Federal Transportation Authority (FTA) – Automatic Vehicle Location (AVL) (1999) funds, to be matched with IT/IS funds. The FTA will contribute \$240,000, or 80% of the funding, and the IT/IS wireless project approved by Council on January 4, 2005 will fund the remaining \$60,000. Implementation costs are expected to be funded primarily from federal grants.

The Agreement will be reviewed and approved as to form by the Law Department.

Mayor Mayans

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

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Motion-- Mayans moved that the selection of CSC to perform a site survey and initial system design be approved; the application for grant amendment be authorized; the transfer of funds approved and the necessary signatures authorized. Motion carried 7 to 0.
--carried

AVIATION FESTIVAL 2005 WICHITA AVIATION FESTIVAL.

John DAngelo City Arts Director reviewed the Item.

Agenda Report No. 05-0112

Request for Proposals were submitted for the 2005 Aviation Festival. The staff recommendation is to reject the proposals due to the change in Scope of Services needed to facilitate the 2005 Aviation Festival. City Council directed staff to work with WFI to produce, market, and manage the 2005 Aviation Festival. The scope of services provided to WFI will include:

- Event concept development and strategic planning;
- Site evaluation and planning;
- Promotion/marketing plan;
- Budget planning;
- Ticketing;
- Facility preparation and operations;
- Air show and attractions and;
- Performance criteria and financials.

It was recommended by the City Council in a workshop on November 23,2004 that staff would work with WFI to produce, market, and manage the 2005 Wichita Aviation Festival. WFI is ready, willing, and able to provide the professional services necessary to accomplish this task as evidence by their past performance of successful production, marketing, and management of the River Festival.

The City will provide \$125,000 in funding for the successful completion of the contract with WFI. The City will pay WFI the sum of \$31,250.00 upon execution of the contract. The City will then pay additional sums in the agreed amounts upon completion of project milestones. A retainage of \$18,750.00 shall be withheld pending successful completion of all tasks outlined in the Contract and Scope of Services.

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

Motion-- Mayans moved that the contract to employ WFI to provide the professional services to accomplish this task be approved and the necessary signatures authorized. Motion carried 7 to 0.
--carried

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(ADDENDUM 29b)
PROPOSED
MORATORIUM

PROPOSED MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR AN ISSUANCE OF LAND USE, BUILDING AND DEVELOPMENT PERMITS AND BUSINESS LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS AND DIRECTING THAT A STUDY BE CONDUCTED ON THE REGULATION OF SUCH USES.

Gary Rebenstorf

Director of Law reviewed the Item.

Agenda Report No. 05-0113

The regulation, permitting and licensing of adult entertainment establishments are governed by Chapter 3.05 of the City Code. There are several types of sexually oriented businesses subject to licensure and regulation, described as adult entertainment establishments.

At the City Council workshop meeting of February 1, 2005, concerns were raised about the societal evils of adult entertainment businesses and their impact on the public health, safety, morals and general welfare of the citizens of the City of Wichita. There are also concerns that the City Code sections relating to the licensure and regulation of sexually oriented businesses are outdated and do not reflect significant developments in the applicable law.

The City Council wants to consider a moratorium on the issuance of permits and licenses for adult entertainment businesses in order for the Council and City staff to more fully and comprehensively address the potential negative effects these establishments impose upon neighboring properties and on the community as a whole.

The proposed moratorium resolution sets forth the following:

- Ø Justification and legal authority for administratively delaying, reviewing and developing comprehensive ordinances regarding sexually oriented businesses
- Ø A six-month moratorium on the consideration or approval of any new requests for licenses or permits regarding land use, building and development permits and business licenses for adult entertainment establishments.
- Ø Direction to the City Manager to assemble a team of appropriate staff from various City departments to actively pursue development of comprehensive ordinances regarding such licensure and regulation

During the six-month moratorium, the staff review team will: (1) assess the current licensure and regulation of sexually oriented businesses; (2) research and analyze developing law; (3) identify alternative, available means and locations within the City by which the City may accommodate the constitutional uses in a manner that negates the pernicious secondary effects of sexually oriented businesses; (4) actively pursue development of comprehensive ordinances and/or code amendments for adult entertainment establishments, and (5) make recommendations to the City Council concerning any necessary and appropriate legislation and/or code amendments.

There is no financial impact to the City.

The City Council has the legal authority under its police powers to establish a reasonable moratorium on the granting of certain permits and licenses.

Gary Rebenstorf

Director of Law stated that at the last workshop, concerns were raised about adult entertainment businesses in Wichita and that he was asked to look into what the City could do as far as regulating those uses and what legal authorities that the City had to regulate these uses. Stated that the City, under its police powers, has the authority to regulate land uses that involve the use of adult entertainment businesses and that regulation is somewhat tempered by the Constitution of the United States where the City does not have the authority to regulate the content of the adult entertainment business. Stated that the City can regulate the secondary effects that such businesses have on the community; and some of those secondary effects can be increase in crime, decrease in property values, decrease in using commercial property in that area. Stated that these types of things are recognized by the courts as the

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secondary effects of this type of business, and that a City can regulate those secondary effects. Stated that the Council has a copy of a proposed resolution to impose a moratorium for six months so that the City Council could have Staff review the City's licensing, regulating and land use powers and report back to the Council what the City should do in regard to those adult entertainment uses.

Stated that in looking at the proposed resolution, the resolution recognizes that the City has an important governmental interest in regulating these type of businesses. A comprehensive study was done by the City when we enacted the Ordinance prohibiting nudity and there was a significant study of secondary effects that we relied upon from several other cities. The courts approve of that process of having that review and being able to review from other cities the secondary effects of issues. The resolution also shows the authority of the City to combat the secondary effects of these adult entertainment businesses to protect the health, safety, welfare and the morals of the community. The resolution spells out that it is not the intent of the City to suppress any free expression that is protected by the First Amendment but to address the problems of sexually oriented business in the community and those secondary effects. Stated that the resolution also addresses the fact that the adult entertainment ordinances of the City have not been reviewed or changed or modified in the last 15 years so it has been awhile since those ordinances have been reviewed. Stated that there have been significant developments in case law over that period of time, so it would be appropriate to review that case law as a part of this study process while the moratorium is in place. The resolution also points out that the City will intend at the end of this moratorium period to regulate adult businesses under the new regulations that are proposed and directs the City Manager to assemble a team of the appropriate departments to conduct this study and to actively pursue the development of comprehensive ordinances that will address the adult entertainment issue. Stated that the study should be completed in six months, and then the results of that study and the comprehensive ordinances would be returned to the City Council for their consideration and review. During that time period there would be a moratorium on consideration and approval of any new licenses for adult entertainment businesses and that it only applies to new business and does not apply to existing businesses. Stated that City Staff will refrain from issuing land use permits, recommendations on building and development permits also during this time period when the comprehensive ordinances are being reviewed and studied.

Stated that based upon our review and study of the current cases, it is his opinion that the City has the legal authority and the legal right to impose this moratorium and study the issue to protect the safety, health, welfare and morals of the community. During this time period, staff will research the developing law, identify available means and locations by which the City may accommodate such Constitutional Uses in a matter that negates the secondary effects of the businesses, and accurately pursue development of the comprehensive ordinances and make recommendations to the Council.

George Kolb

City Manager Kolb stated that the resolution also requires that the City Manager assemble a team to pursue this particular study, which as of yesterday has been done and that the team will consist of police, fire, OCI, law department, planning and environmental services and that we will do a comprehensive review of our Codes that impact on this subject and bring back those recommendations to you within the time-frames as provided by the resolution.

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Mayor Mayans

Mayor Mayans started that he had some information from a land use study in St. Paul, Minnesota, where they dealt with protective zones and protective uses, which were parks, parkways, public recreation centers, day care centers, house of workshop, public library, the schools, including fire stations because of school field trips, community residential facility missions, hotels and motels, which often have permanent residents for a week or longer. Stated that he will provide the Council and the committee with that and look at the negative land use impact of single adult use extended, such as several blocks from some of these facilities. Stated that he would also like to read on behalf of the Council, why the Council is doing this.

Whereas, sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and the welfare of the patrons of such businesses as well as the citizens of the communities where they locate, and

Whereas, the City Council finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

Whereas, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent them, causing increased crime and the downgrading of property values; and

Whereas, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

Whereas, the City Council wants to prevent these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

Whereas, it is not the intent of the ordinance that we are to undertake to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of sexually oriented businesses as well as the health problems associated with such businesses.

Mayor Mayans

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

Motion--
--carried

Mayans moved that the six-month moratorium be approved and the Resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-066

A Resolution by the City of Wichita, Kansas adopting an administrative delay for considering and approving new requests for the licensing of adult entertainment establishments, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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PLANNING AGENDA

Motion -- carried

Mayor Mayans moved all Planning Agenda Items be approved as presented. Motion carried 7 to 0.

VAC2004-45

VAC2004-45-REQUEST TO VACATE PLATTED SETBACKS AND CONTINGENT DEDICATION OF STREET RIGHT-OF-WAY LOCATED ON THE SOUTHWEST CORNER OF THE CENTRAL AVENUE AND WACO STREET INTERSECTION. (DISTRICT VI)

Agenda Report No. 05-0102

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicant is requesting vacation of the platted 35-foot setback that runs parallel to the Central Avenue and Waco Avenue right-of-ways (ROW), located on the northern and eastern portions of the site; Lot 2, the Emerson Addition. The applicant is also requesting vacation of a contingent dedication of street right-of-way along the northeast portion of the site. The Emerson Addition was recorded with the Register of Deeds on May 5, 1980.

The east portion of the site is zoned "GC" General Commercial and the west portion of the site is zoned "B" Multi-family Residential. The Unified Zoning Code's (UZC's) standard for a front yard setback for the "GC" zoning district is 20-feet, with no minimum street side setback. The UZC's standard for a front yard setback for the "B" zoning district is 20-feet. The applicant has filed for a Lot Split (SUB2004-84), which divides Lot 2 into Parcels A & B. Parcel A (1.1-acres) is the subject site. Per Art III, Sec. III-E, #6 of the UZC, the front setback on a corner lot is located along the shorter street frontage, which in this case would be the Central Avenue frontage, with the street side setback being along the Waco Avenue frontage. The platted setbacks will be replaced with the UZC's setbacks for the "GC" and "B" zoning districts. The contingent dedication for public street ROW, was to be used when the City needed it. Public Works has determined that the contingent dedication for public street ROW is not and will not be needed. There are no public or franchised utilities located within the setbacks.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

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

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

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VAC2004-61

VAC2004-61-REQUEST TO VACATE A PORTION OF PLATTED STREET RIGHT-OF-WAY AND PLATTED SETBACKS, GENERALLY LOCATED MIDWAY BETWEEN 159TH STREET EAST AND 143RD STREET EAST, AND NORTH OF 13TH STREET NORTH, MORE SPECIFICALLY LOCATED SOUTH OF THE SPORT OF THE KINGS ROAD - SPORT OF KINGS COURT INTERSECTION, ALL ON SPORT OF KINGS COURT. (CITY OF WICHITA THREE-MILE RING SUBDIVISION JURISDICTION-SEDGWICK COUNTY)

Agenda Report No. 05-0103

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicants are requesting consideration for the vacation of a portion of the platted 30-foot setback and a portion of the 75-foot radius of the Sport of Kings Court cul-de-sac, all in Block 5 of the Savanna at Castle Rock Ranch 5th Addition. The Savanna at Castle Rock Ranch 5th Addition was recorded with the Register of Deeds on March 9, 1994.

The applicants propose the vacation to allow more area to build single-family residences on the lots. The applicants propose to reduce the cul-de-sac radius to a 50-foot radius, which would match the Subdivision Regulations for a city local street. There is a water line in the Sport of Kings Court right-of-way including a portion of the cul-de-sac. The applicant proposes to replace the platted 30-foot front setback on Lots 6-10, with the Unified Zoning Codes' 25-foot front setback for the "SF-20" Single-family Residential zoning district. The site is zoned "SF-20".

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

Because this vacation case is located in Sedgwick County but within the City of Wichita's three-mile ring subdivision jurisdiction, consideration and final action by both the Wichita City Council and the Sedgwick County Board of County Commissioners is required

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

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized.
Motion carried 7 to 0.

VAC2004-63

VAC2004-63-REQUEST TO VACATE A PORTION OF MULTIPLE PLATTED UTILITY EASEMENTS AND RESERVES GENERALLY LOCATED NORTH OF 29TH STREET NORTH AND EAST OF 119TH STREET WEST. (DISTRICT V)

Agenda Report No. 05-0104

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicant proposes to vacate a portion of multiple platted easements and reserves abutting the 119th Street West and the 29th Street North rights-of-way located in the Fontana Addition. The Fontana Addition was recorded with the Register of Deeds on September 8, 2004.

The Public Works Department and the franchised utilities are requesting replacement easements for utilities.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

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A certified copy of the Vacation Order, a restrictive covenant, and dedications of a utility easement and a wall easement will be recorded with the Register of Deeds

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized.
Motion carried 7 to 0.

ZON2004-62

ZON2004-62-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED INDUSTRIAL. GENERALLY LOCATED AT THE NORTHEAST CORNER OF HARRY AND SEVILLE. (DISTRICT IV)

Agenda Report No. 05-0105

MAPC Recommendations: Approve, subject to platting within one year.

MAPD Staff Recommendations: Approve, subject to platting within one year.

DAB Recommendations: Not applicable.

The application area is nine unplatted acres located at the northeast corner of Harry and Seville. As paved, and there are a number of storage or warehouse type buildings along with vertical walls that appear to be used to segregate different materials out in the open. The site is currently zoned "SF-5" Single-family Residential, which makes the current uses non-conforming or illegal. The applicant's application states only they are seeking "LI" Limited Industrial zoning so the site can be used for uses permitted in the "LI" district.

Access to the site is provided by a drive off of Seville that is located at the northwest corner of the site, and another drive is located off of Harry that is located at the southeast corner of the tract. Both Seville and Harry are sand and gravel roadways. Seville provides a connection to the Kellogg commercial corridor located to the north, and Harry provides a connection to the industrial area located to the east along Tyler Road.

An abandoned railroad right-of-way, that has been or is being converted to a recreational trail, is located immediately north of the application area. North of the abandoned railroad right-of-way there are a variety of "GC" General Commercial uses such as car sales, agricultural supplies and other retail uses. East of the site are single-family residential homes located on SF-5 Single-family Residential zoning. Approximately 750 feet further to the east are industrially zoned properties fronting Tyler. The Airport Authority and the Park Board own property located to the south and west of the site; some of which is used for the Pawnee Prairie Park golf course.

The Metropolitan Area Planning Commission (MAPC) heard this request on December 23, 2004, and unanimously (11-0) recommended approval, subject to platting within one year. No one was present to speak in opposition, nor have there been any written protests received.

Motion--
--carried

Mayans moved that the zone change subject to platting within one year be approved; the Planning Department be instructed to forward the ordinance for first reading when the plat has been recorded with the Register of Deeds. Motion carried Motion carried 7 to 0.

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HOUSING AGENDA

Motion --carried

Mayor Mayans moved all Housing Agenda Items be approved as presented. Motion carried 8 to 0.

SECTION 8

SECTION 8 ADMINISTRATIVE PLAN REVISIONS.

Agenda Report No. 05-0106

The Governing Board of the Housing Authority must approve revisions to the Section 8 Administrative Plan before changes can be implemented. The revisions to the existing plan are requested in order to modify local procedures. Attached is the Section 8 Administrative Plan with changes and revised pages noted.

Changes to the Section 8 Administrative Plan include information about the Housing and Urban Development – Upfront Income Verification (UIV) system, utilizing the UIV system as third-party verification of client income, procedures relative to families relocating, procedures on Housing Quality Standards for vacant units within multi-family lots, and timing of verification. Further, enforcement procedures have been modified in order to discourage fraudulent activity on the part of Section 8 tenants, with respect to the non-disclosure of household income.

Amendments are required or permitted in accordance with Rules and Regulations for Administration of the Section 8 Voucher Program

Motion--
--carried

Mayans moved that the revisions to the Section 8 Administrative Plan for the Section 8 Housing Choice Voucher Program be reviewed and approved. Motion carried 8 to 0.

SEMAP

SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP).

Agenda Report No. 05-0107

On October 6, 1998 the Department of Housing and Urban Development (HUD) issued final rules for the Section 8 Rental Voucher and Certificate Programs, Section 8 Management Assessment Program (SEMAP). SEMAP is a management assessment System that HUD uses to annually measure the performance of all housing agencies that administer Section 8 Tenant Based Rental Assistance programs. Under the SEMAP, HUD assesses housing authorities' performance on 14 Key Indicators that show how well eligible families are helped to afford decent rental units at a reasonable subsidy cost.

The Housing Authority (HA) must certify as to their program performance under these 14 standards, 60 days after the Housing Authority's fiscal year ends. The Wichita Housing Authority's fiscal year ends December 31, 2004, so the certification is due on March 1, 2005.

The SEMAP indicators and HUD expectations are as follows:

1. Selection from the Waiting List (15 points): The HA has a written policy for selecting applicants and follows these policies when selecting applicants from the waiting list.
2. Reasonable Rent (20 points): The HA has implemented written methods to determine reasonable rents.
3. Determination of Adjusted Income (20 points): The HA correctly determines adjusted annual income.
4. Utility Allowance Schedule (5 points): The HA maintains up to date utility allowance schedules.

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5. HQS* Quality Control Inspections (5 points): An HA supervisor re-inspects a sample of units for Quality Control. *Housing Quality Standards
6. HQS Enforcement (10 points): HQS inspection deficiencies are corrected in a timely manner.
7. Expanding Housing Opportunities (5 points): The HA has adopted and implemented a written policy to encourage participation in areas outside poverty or minority concentrations.
8. FMR* limit and Payment Standards (5 points): Gross rents for 98% of new units leased is applicable and reasonable. *Fair Market Rent
9. Annual Reexaminations (10 points): The HA completes an annual reexamination for each tenant.
10. Correct Tenant Rent Calculations (5 points): The HA correctly calculates tenant rents.
11. Pre-Contract HQS Inspections (5 points): Newly leased units pass HQS before the beginning date of lease.
12. Annual HQS Inspections (No points at this time): Each unit is inspected annually and on time.
13. Lease up (20 points): The HA enters Hap contracts for the number of units under budget for at least one-year. The standard is 98%.
14. Family Self-Sufficiency Enrollment and Escrow Accounts (10 points): Measures the percentage of required families enrolled in FSS program and the percentage that has escrow accounts. The standards are 80% and 30%, respectively.

The total points that may be awarded is 135. Five bonus points are available to housing authorities that achieve certain de-concentration goals during the year. A housing authority with a SEMAP score of at least 90% is rated a High Performer. Housing Authorities with a SEMAP score of 60-89% is rated as Standard. Housing Authorities with scores of less than 60% are rated "troubled" and are subject to a HUD onsite review and development of a corrective action plan.

Housing authorities with a "high performer" rating may be given competitive advantage under notices of fund availability.

Motion--
--carried

Mayans moved that the Certification relative to the submission of the 2004 Section 8 Management Assessment Program (SEMAP) be approved. Motion carried 8 to 0.

ASSESSMNT SYSTEM 2004 PUBLIC HOUSING ASSESSMENT SYSTEM.

Agenda Report No. 05-0108

On January 11, 2000, HUD published 24 CFR Part 902 in the Federal Register requiring housing authorities to submit the Public Housing Assessment System (PHAS) certification. This assessment system designates public housing authorities as High Performers, Standard Performers or Troubled Performers. Housing authorities that score 90 or higher on a 100-point scale, are judged to be High Performers and will be given more operating flexibility. Housing authorities that score between 60 and 90 are judged to be Standard Performers.

CITY COUNCIL PROCEEDINGS

Housing authorities scoring below 60 will be judged to be Troubled Performers under PHAS and will receive help from HUD's Troubled Agency Recovery Center to improve their performance and meet HUD's new standards. If a troubled housing authority fails to significantly improve its performance a year after it is referred to the Recovery Center, HUD's Enforcement Center can ask a federal judge to create a receivership to take over management of the authority and remove its board members from office. HUD can also seek civil and criminal sanctions against housing authorities in the most serious cases.

Following are the key elements of the 2004 PHAS Certification:

Physical Inspections are 30% of the score and are based on HUD's physical inspection of all public housing developments. Evaluations are based on objective, verifiable and uniform national standards designed to determine if public housing residents receive decent, safe and sanitary housing.

Financial Assessment is 30% of the score and is based on HUD's evaluation of the financial condition of the housing authority electronic submissions, using generally accepted accounting principles. The Wichita Housing Authority (WHA) accountants will electronically submit standardized financial information to HUD prior to March 1, 2005.

Management Review is 30% of the score and is based on HUD's measurement of 19 management indicators. These indicators include unit turnaround time, Capital Fund expenditures, completion time of maintenance work orders, annual inspections, lease enforcement and resident self-sufficiency.

Resident Satisfaction and Services Assessment make up 10% of the score and is based on results of HUD's survey of public housing residents, as to their satisfaction with their housing. Residents are asked their opinion of the quality of their dwelling units, resident organizations, program activities, safety and other issues.

The overall PHAS score is calculated based upon all indicators and graded by HUD's computer. The WHA expects that modernization and work orders will score high as they have in the past. The vacancy turnaround time increased slightly in 2004 compared to the 2003 total due to an increased number of move outs resulting from evictions for tenant non-compliance. The Public Housing Division made ready and leased 104 units in 2004 compared to 86 units in 2003. The final results of the Financial Assessment and Resident Assessment will not be known until the overall PHAS scores are released.

The 30-point Physical Condition score has not been received at this time. The final PHAS score results for 2003 were:

Physical Condition	23 of 30
Financial Condition	26 of 30
Management	26 of 30
Resident Satisfaction	<u>9 of 10</u>
TOTAL	84 or 100

Motion--

--carried

Mayans moved that the submission of the 2004 Public Housing Assessment System Certification for Management Indicators, to the Department of Housing and Urban Development be reviewed and approved; the resolution adopted and the necessary signatures authorized. Motion carried 8 to 0.

RESOLUTION NO. H-05-01

A Resolution certifying FY 2004 PHAS, presented. Mayans moved that the Resolution be adopted. Motion carried 8 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans, Inafay Grays-McClellan.

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ACOP

ADMISSIONS & CONTINUED OCCUPANCY POLICY (ACOP).

Agenda Report No. 05-0109

Public housing authorities are required by Housing and Urban Development (HUD) regulations to adopt and maintain admission, occupancy and waiting list policies, and to revise them as necessary. The last time that the Wichita Public Housing revised its Admissions & Continued Occupancy Policy (ACOP) was on September 9, 2004.

The Wichita Housing Authority (WHA) wishes to revise its policy regarding writing off uncollectable accounts, by allowing a write-off of the balance of former tenant accounts 90 days after the tenant's move-out date. This revision to the Write Off Of Uncollectable Accounts policy will allow staff to take action immediately when a resident, who has a past due account, has vacated, and will thereby lower the "Tenant Account Receivable" balance. The balance in Tenant Account Receivable is a part of the financial indicator in the Public Housing Assessment System (PHAS) evaluation by HUD.

Motion--
--carried

Mayans moved that the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing program be reviewed and approved. Motion carried 8 to 0.

CITY COUNCIL

APPOINTMENTS

BOARD APPOINTMENTS.

No appointments were made.

(OFF AGENDA ITEM)

Mayor Mayans

Mayor Mayans stated that he would like to ask Council Member Brewer to make a statement.

Council Member Brewer

Council Member Brewer stated that time is of the essence and individuals are trying to get their work accomplished, get things done and trying to utilize their time in an effective manner. Stated that at this point in time, we need to make a comment about something and that he would like the manager to possibly send a letter or a memo to all media and ask them to please wait until the individuals actually leave the area or wait until their council meeting is over to do their interviews as opposed to during the council meeting, because when they are interviewing, everyone is busy trying to pay attention to them, trying to figure out what the story is going to be about, why they are interviewing this person and making it disruptive.

EXECUTIVE SESSION

Mayans announced at 11:48 a.m. that Council would recess into executive session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation and legal advice at 12:00 noon and return no later than 12:15 p.m..

RECONVENE

The Council reconvened in the Council Chambers at 12:15 p.m. Mayor Mayans announced that no action was taken.

Motion--carried

Mayans moved at 12:15 p.m. to adjourn the Executive Session. Motion carried 7 to 0.

Motion--carried

Mayans moved at 12:16 p.m. to adjourn the regular meeting. Motion carried 7 to 0.

Adjournment

The City Council meeting adjourned at 12:16 p.m.

Patsy Ellis
Deputy City Clerk

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*****Workshop followed in the first floor boardroom*****