

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, September 18, 2007
Tuesday, 9: 03 A.M.

The City Council met in regular session with Mayor Brewer in the Chair. Council Members Fearey, Gray, Longwell, and Williams present. (Schlapp and Skelton not present).

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

Pastor Bryan Mann from New Beginnings Seventh Day Adventist gave the invocation.

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

The Minutes of the regular meeting of September 11, 2007, approved 5 to 0, (Schlapp and Skelton absent).

*****Council Members Schlapp and Skelton arrived at 9:06 a.m.*****

PUBLIC AGENDA

Eric Williams

Reverend Eric Williams-Express appreciation to the City of Wichita regarding KenMar Neighborhood Association.

Mr. Williams stated he is here on behalf of the KenMar Neighborhood Association to express their gratitude and appreciation for the teaming that has taken place between the City of Wichita and its agencies and departments and the KenMar Neighborhood Association.

CONSENT AGENDA

Council Member Skelton Council Member Skelton asked that item 10 is pulled for questions.

Motion--
--carried

Brewer moved that Consent items 2-14e be approved in accordance with the recommended action shown thereon excluding item 10. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED SEPTEMBER 17, 2007

There was not a Board of Bids Meeting held due to a fire and closing of City Hall.

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CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2007</u>	<u>(Consumption off Premises)</u>
Kulwinder Jaswal	Petro America	223 East 21 Street
Nelson A. Chamay	El Bahia*	2855 South Hydraulic Street
Wayne R. Larson	Sierra Hills Golf Club	13420 East Pawnee
New Operator	<u>2007</u>	<u>(Consumption off Premises)</u>
Marilyn Knedgen	Crescent Stores Corp dba CSC #72	12728 East Central
Mohammad N. Islam	Abeg Enterprises	3805 West 21st
Shan Bin Zheng	China Café*	511 South West Street

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

Motion--
--carried

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

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. Douglas Avenue Drainage Outfall Phase I; Wabash Sanitary Sewer Replacement; Douglas Water Main Replacement (west of the Wichita Drainage Canal, north of Douglas) (468-84060/468-84352/448-90289/660798/620477/636183/864501/667595/777574) See Special Provisions. (District I, VI) - \$5,904,682.00
- b. 2007 Contract Maintenance Pedestrian Bridge Replacement (Fabrique & Funston over the Fabrique Branch of Gypsum Creek) (472-84510/132720/) Traffic to be maintained during construction using flagpersons and barricades. (District III) - \$90,000.00
- c. 2007 Sanitary Sewer Reconstruction, Phase 9 (various locations north of Central, east of I-135) (468-84392/620488/667606) Traffic to be maintained during construction using flagpersons and barricades. (District I,II) - \$267,000.00
- d. Arkansas River Bike Path Enhancement Project (Central to 13th Street North) (87 TE-158-01/472- 84405/706963/207429) Does not affect existing traffic. (District VI) - \$844,000.00
- e. Water Distribution System to serve West Ridge Commercial Addition (south of 29th Street North, east of 119th Street West) (/735175/470845) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$78,180.00
- f. Water Distribution System to serve Fawn Grove at Sunset Lakes Addition (south of Kellogg, west of Greenwich) (448-90306/735373/470046) Does not affect existing traffic. (District II) - \$52,000.00
- g. Water Distribution System to serve Maple Shade Addition (north of Pawnee, east of Webb) (448-90318/735375/470048) Does not affect existing traffic. (District II) - \$45,000.00
- h. Lateral 407 Four Mile Creek Sewer to serve Maple Shade Addition (north of Pawnee, east of Webb) (468-84391/744244/480932) Does not affect existing traffic. (District II) - \$65,000.00

Motion--carried

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

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PETITION

WATER DISTRIBUTION SYSTEM IN WATERFRONT FOURTH ADDITION, NORTH OF 13TH, EAST OF WEBB. (DISTRICT II)

Agenda Item No. 5a.

Background: On November 2, 2004, the City Council approved a Petition for a water distribution system in Waterfront 4th Addition. Based on recent bid prices, it is doubtful that there is sufficient funding in the Petition budget to award a construction contract. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will serve a new commercial development located north of 13th, east of Webb.

The existing Petition totals \$17,500. The new Petition totals \$52,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing a water distribution system required for a new commercial development.

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

Motion--
--carried

Brewer moved that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures. Motion carried 7 to 0.

RESOLUTION NO. 07-518

Resolution of Findings of Advisability and Resolution authorizing construction of Water Distribution System Number 448-90020, north of 13th, east of Webb, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

PETITION

SANITARY SEWER FOR LOT 1, BLOCK A, METAL-FAB ADDITION, EAST OF SHERIDAN, SOUTH OF MAY. (DISTRICT IV)

Agenda Item No. 5b.

The Petition has been signed by one owner representing 100% of the improvement district.

The project will provide sanitary sewer service for commercial development located east of Sheridan, south of May.

The Petition totals \$64,000. The funding source is special assessments.

This project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for commercial development.

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

Motion--
--carried

Brewer moved the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures. Motion carried 7 to 0.

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RESOLUTION NO. 07-519

Resolution of Findings of Advisability and Resolution authorizing construction of Lateral 170, Sanitary Sewer No. 22, east of Sheridan, south of May, 468-84405, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

DEEDS & ESMTS

DEEDS AND EASEMENTS:

- a. Drainage and Utility Easement dated August 6, 2007 from Fox Ridge Development Company, Inc.; AND Craig Stuart Homes Inc. for a tracts of land lying within portions Lots 59, 60, 63, 64, 90, 91, 98, and 99, Block 1, AND Reserve "B" AND Lot 6, Block 2, Fox Ridge Addition, an addition to Wichita, Sedgwick County, Kansas, (OCA # 607861) No cost to City
- b. Easement dated July 26, 2007 from Trace J. McDermott, Karen B. McDermott, Dana M. Lies and Leigh A. Lies for a tract of land lying in Lot 25, Block 25, Block A, Teal Brook Estates, An Addition to Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City

Motion--carried Brewer moved to accept documents. Motion carried 7 to 0.

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

BOARDS/COMMISS.

MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Design Council,	August 3, 2007
Wichita Public Library,	August 1, 2007
District II Advisory Board,	August 6, 2007

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

ASSESSMENT ROLLS PROPOSED ASSESSMENT ROLLS.

Proposed Assessment Rolls have been provided for twenty (20) water projects, eighteen (18) sewer projects, and ten (10) storm sewer projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 8, 2007 at 11:00 a.m.

Motion--
--carried Brewer moved to set the hearing on the Proposed Assessment Rolls for 9:30 a.m., Tuesday, October 16, 2007. Motion carried 7 to 0.

(Item 10)

CONTRACTS

CONTRACTS AND AGREEMENTS FOR AUGUST 2007.

Council Member Skelton Council Member Skelton stated he has a question for Staff regarding the purchase orders under \$25,000.00 for Touch Pole.

George Kolb City Manager explained this is a vendor who will be providing a kiosk in the airport for customer service survey questions and it is a three year contract.

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

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WATER AGMNT

UNITED STATES GEOLOGICAL SURVEY (USGS) SURFACE WATER AGREEMENT OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008.

Agenda Item No. 11a.

In 1957, as a condition of Federal assistance in construction of the Wichita-Valley Center Flood Control Project, the City of Wichita entered into a cooperative agreement with the United States Geological Survey (USGS) to install and maintain stream recorders along the project. Rainfall recorders were added later for the City's own use.

The Department of Public Works uses recorders to monitor rainfall through the drainage basins affecting the project to determine volumes of incoming water. This collected data is transmitted to the National Weather Services, which transmits the data to the River Forecast Center in Tulsa, Oklahoma. The data is statistically analyzed and published by USGS. The Water Department monitors the flow of water into and out of Cheney Reservoir and relays the elevation of the lake to the Corps of Engineers.

The Agreement requires the City to pay \$42,380 of the \$70,900 total program cost, with USGS responsible for the balance of \$28,520. Budget for the City's cost is split between the Water & Sewer Department (\$17,680) and City-County Flood Control (\$24,700). These funds have been allocated in the appropriate operating budgets.

The information received on the rainfall volumes helps provide for a safe and secure community by providing information on which to base flood warnings.

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

Recommendations/Actions: It is recommended the City Council approve the Joint Funding Agreement and authorize the necessary signatures.

Motion--
--carried

Brewer moved to approve the agreement and authorize the necessary signatures. Motion carried 7 to 0.

FONTANA THIRD

STAKING IN FONTANA THIRD ADDITION, EAST OF 119TH STREET WEST, NORTH OF 29TH STREET NORTH. (DISTRICT V)-SUPPLEMENTAL

Agenda Item No. 11b.

The City Council approved the paving improvements in Fontana Addition on July 10, 2007. On September 11, 2007 the City approved an Agreement with Professional Engineering Consultants, P.A. (PEC) to design the improvements. The Design Agreement with PEC requires PEC to provide construction engineering and staking services if requested by the City.

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

Payment to PEC will be on a lump sum basis of \$18,000 and will be paid by special assessments.

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

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

Motion--
--carried

Brewer moved that the City Council approve the Supplemental Agreement and authorize the necessary signatures. Motion carried 7 to 0.

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CHANGE ORDER

STREET PAVING IN AUBURN HILLS 16TH ADDITION, SOUTH OF MAPLE, WEST OF 135TH STREET WEST. (DISTRICT V)

Agenda Item No. 12a.

On April 3, 2007, the City Council approved a construction contract with LaFarge North America to pave streets in Auburn Hills 16th Addition. After the contract was awarded, the developer requested that ornamental concrete pavers be installed at a pedestrian crosswalk.

A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

The total cost of the additional work is \$14,159 with the total paid by Special Assessments. The original contract amount is \$323,995. This Change Order represents 4.37% of the original contract amount.

This project addresses the Efficient Infrastructure goal by enhancing the appearance of a pedestrian crosswalk in a new residential development.

The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

Motion--
--carried

Brewer moved to approve the Change Orders and authorize the necessary signatures. Motion carried 7 to 0.

FEDERAL PENSION

RESOLUTION REFLECTING THE INTENT AND POLICY OF THE CITY COUNCIL WITH RESPECT TO COUNCIL MEMBERS' FEDERAL PENSION AND 457 REPLACEMENT PLAN OFFSETS.

Agenda Report No. 13

In recent years, the federal government has begun actively enforcing certain federal enactments that can potentially reduce Social Security payments to recipients of local governmental benefits relating to employment that was not covered by FICA. These enactments (the "Federal Laws") may be applied with respect to the section 457 FICA Replacement Plan interests of Council Members who participated in the City's 457 Plan as a replacement for FICA.

The Governing Body may wish to provide for additional payments to Council Members impacted by the Federal Laws, so that such Council Members will receive additional benefits to compensate for any offsets to Social Security payments that occur by operation of the Federal Laws. The attached Resolution directs the City and City Staff to identify the appropriate funds and to reimburse Council Members for any offsets in their Social Security benefits arising under the Federal Laws.

The extent in dollars of any future federal offset(s) is not ascertainable at this time and hence the budget cost associated with the direct to staff is unknown.

The City Council has the authority to authorize the compensation for the federal offsets.

Internal Perspective.

Motion--carried

Brewer moved to take appropriate action. Motion carried 7 to 0.

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RESOLUTION NO. 07-520

A Resolution reflecting the intent and policy of the City Council with respect to making council members whole from Federal Pension and 457 Replacement plan offsets, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ SEPTEMBER 11, 2007.)

- a. Adoption of Tax Exemption Ordinance, Eck Leasing/C.E. Machine Co., Inc. (District IV)

ORDINANCE NO. 47-570

An ordinance exempting property from Ad Valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas constitution; providing the terms and conditions for Ad Valorem tax exemption; and describing the property of Eck Leasing/C.E. Machine Co., Inc., so exempted, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0, Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

- b. Public Hearing and Issuance of Health Care Facilities Improvement Revenue Bonds, Larksfield Place. (District II)

ORDINANCE NO. 47-571

An ordinance authorizing the city of Wichita, Kansas, to issue its health care facilities improvement revenue bonds, series iv, 2007 (Larksfield Place), in the aggregate principal amount of not to exceed \$13,000,000 for the purposes of paying the cost of purchasing, acquiring, constructing, furnishing and equipping certain additions to an existing facility; prescribing the form and authorizing execution of a first supplemental trust indenture by and between the issuer and Commerce Bank, N.A., as trustee; prescribing the form and authorizing the execution of a first supplemental lease agreement by and between the issuer and Wesley Retirement Communities, Inc. d/b/a Larksfield Place; approving the form of a guaranty agreement to be executed in connection with the issuance of said bonds; authorizing execution of a tax compliance agreement by and among the issuer, the trustee and the corporation; authorizing the execution of a bond purchase agreement by and among the issuer, the corporation and Ziegler Capital Markets, as underwriter of the bonds, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0, Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

- c. Sister Cities Program-Board.

ORDINANCE NO. 47-572

An ordinance of the city of Wichita pertaining to the merger of the sister cities advisory board; amending sections 2.12.1008 of the code of the city of Wichita; and repealing the original of said section and repealing sections 2.12.1010, 2.12.1012, and 2.12.1014, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0, Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

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- d. SUB 2007-22-Plat of Koch Community Park Addition located north of 29th Street North and on the west side of Oliver. (District I)

ORDINANCE NO. 47-575

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

- e. A07-17R-Request by Eugene Vitarelli of Palladio Developers, Inc., to annex land generally located north of Pawnee Road, between 127th Street East and 143rd Street East. (District II)

ORDINANCE NO. 47-576

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas, introduced and under the rules aid over second time. Brewer moved that the Ordinance be placed upon its passage and adopted, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0, Fearey, Gray, Longwell, Schlapp, Skelton, Williams, and Brewer.

UNFINISHED BUSINESS

1117 SOUTH MAIN

REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES, 1117 SOUTH MAIN. (DISTRICT I)

Kurt Schroeder

Office of Central Inspection reviewed the item.

Agenda Item No. 15.

This property was before the Board of Code Standards and Appeals (BCSA) on May 7, 2007. No-one appeared to represent the property, no repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

This case was before Council on July 17, 2007 and a resolution was adopted allowing 10 days to start and 10 days to complete demolition. An asbestos survey was performed at a cost of \$394.00. Asbestos removal bids were being sought, but have since been put on hold.

On August 22, 2007, this property was sold at tax auction. The buyer was unaware of the condemnation case and requested that this property be reviewed by City Council. At the request of the new owner, and Council Member Williams, this property was placed of the agenda for review on September 18, 2007.

Staff made an inspection of the property on August 28, 2007. The buyer was on site clearing brush and weeds from the property.

The taxes are still shown as delinquent in the amount of \$5,164.54; it was sold at tax sale on August 22, 2007. There are 2006 and 2007 specials for weed mowing and lot cleanup in the amount of \$1,815.30 and a pending assessment for board-up in the amount of \$229.98.

The new owner/s has been informed of the date and time of the hearing.

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Kurt Schroeder Office of Central Inspection stated that Staff's recommendation is to allow the property owner additional time of 60 days to attain the final deed and when he obtains the final deed grant him an additional 60 days to complete the repairs to the property.

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

Motion-- Williams moved to take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) the asbestos survey costs and pending assessment are paid within 30 days; (2) the structure is maintained secure as of September 18, 2007 and is kept secured during renovation; and (3) the premise kept clean and free of debris as of September 18, 2007, and will be so maintained during renovation and to allow 60 days to obtain the deed and another 60 days to complete repairs and to have painted by spring. Motion carried. Motion carried 7 to 0.

--carried

RESOLUTION NO. 07-528

A Resolution finding that the structure/s legally described as, Lots 151, 153, 155 and 157 on Main Street, Lee's Addition in Sedgwick County, Kansas to the City of Wichita, Sedgwick County, Kansas, known as 1117 S. Main, is unsafe or dangerous and directing the structures/s to be made safe and secure or removed, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Schlapp, Skelton, Longwell, Williams and Brewer.

856 NORTH OLIVER REPAIR OR REMOVAL OF DANGEROUS & UNSAFE STRUCTURES, 856 NORTH OLIVER. (DISTRICT I)

Kurt Schroeder Office of Central Inspection reviewed the item.

Agenda Item No. 16.

This property was before the Board of Code Standards and Appeals (BCSA) on May 7, 2007. No-one appeared to represent the property, no repairs had been made to the property, and the BCSA recommended 10 days to start demolition and an additional 10 days to complete.

This case was before Council on July 17, 2007 and was deferred until August 7, 2007, at the request of the owner and Council Member Williams. At the August 7, 2007 hearing, the owner was given 30 days to repair the structure and staff was directed to bring the property back for review by the Council in September.

Staff made an inspection of the property on August 24, 2007. The structure has been re-roofed and some exterior painting has been done. There is some scattered debris (from the roof) and the front yard has not been mowed (6 to 8 inch grass present). The structure is open again (rear door and broken window). A section of brick was moved from the rear of the structure.

As of August 24, 2007, the taxes are current. There are no special assessments.

The owner/s has been informed of the date and time of the hearing.

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

Motion-- Williams moved that the City Council take appropriate action based on the testimony received at the hearing and give no more than 30 days for final repairs. Any extension of time granted to repair the structure should be conditioned on the following: (1) the structure is maintained secure as of September 18, 2007 and is kept secured during renovation; and (2) the premise kept clean and free of debris as of September 18, 2007, and will be so maintained during renovation. Motion carried 7 to 0.

--carried

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RESOLUTION NO. 07-527

A Resolution finding that the structure/s legally described as, Lot 1, Block 5, East Highland North Addition to the City of Wichita, Sedgwick County, Kansas, known as 856 N. Oliver , is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Schlapp, Skelton, Longwell, Williams and Brewer.

ANIMAL CARE

WICHITA ANIMAL CARE CAMPUS, CITY AND HUMANE SOCIETY. (DISTRICT I)

Ed Martin

Building Services Manager reviewed the item.

Agenda Item No. 17.

On May 18, 2004, the City Council approved a Memorandum of Understanding (MOU) between the City and Kansas Humane Society (KHS).

On June 8, 2004, the City Council approved the Capital Improvement Project (CIP) and authorized staff to select a design consultant.

On April 5, 2005, the City Council approved a contract with Wilson Darnell Mann Architect (WDM) for the Programming Phase of the project and a Letter of Intent between the City and KHS.

On August 23, 2005, the City Council approved the purchase of property at 3239 N. Hillside for the Animal Care Campus.

On March 7, 2006, the City Council approved a contract amendment with WDM for the Schematic Design Phase and a Land Lease Agreement between the City and KHS.

On November 28, 2006, the City Council approved a contract amendment with WDM for the Design Development Phase for the Wichita Animal Care Campus.

WDM has completed the Programming, Schematic Design and Design Development Phases of the project, which identified the objectives, preliminary requirements for building systems, site investigation and research, anticipated animals to be housed, daily operations, concept plans and elevations, equipment list and budget, furnishings list and budget and opinion of probable construction cost. The next step in this project is the Construction Document Phase and actual construction.

WDM will prepare the detailed construction drawings and specifications, obtain approvals of State or other agencies to the drawings and specifications, set forth in detail and prescribe the work to be done, the materials, workmanship, finishes, and equipment required for the architectural, civil, structural, mechanical, plumbing, electrical, service connected equipment, site work and contract documents for a single stipulated lump sum fee of \$251,110.00 which includes construction administration and reimbursable expenses. KHS will negotiate independent of the City with WDM a fee for the Construction Document Phase of this project and pay for those fees from their capital fund.

The project is authorized in the 2007-2016 Capital Improvement Program (CIP) at \$3.8 million in 2008 and \$3 million in 2009 for a total of \$6.8 million. KHS has secured financing for their part through a capital campaign and has matching funds.

This project addresses the Economic Vitality and Affordable Living Goal by providing public improvement in new developments that are vital to Wichita's continued economic growth.

The Law Department has approved the Resolution and Contract Amendment as to form.

Mayor Brewer

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

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Motion--
--carried

Williams moved that the City Council adopt the Resolution, approve the Contract Amendment and authorize the necessary signatures. Motion carried 7 to 0.

RESOLUTION NO. 07-521

A Resolution amending Resolution NO. R-04-292 of the City of Wichita, Kansas, determining the advisability of making certain public improvements in the City of Wichita, Kansas, setting forth the general nature and the estimated cost of such improvements; and authorizing the issuance of Bonds in the City of Wichita, Kansas to pay all or a portion of the cost, presented. Williams moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

NEW BUSINESS

HOMELESSNESS

REPORT OF THE TASK FORCE TO END CHRONIC HOMELESSNESS.

Jack Focht

Chair of the Task Force to End Chronic Homelessness reviewed the item.

Agenda Item No. 18.

On August 8 and 9, 2006 the Board of Sedgwick County Commissioners and the Wichita City Council established a joint ad hoc taskforce to address chronic homelessness, the Taskforce to End Chronic Homelessness. Members of the taskforce are community leaders, appointed by the City and County Managers. The task force's charge is to study the problems created by homelessness and to create a plan to eliminate chronic homelessness in our community. Over the past year, the task force has heard presentations from approximately 20 area homeless service providers and stakeholders. With this information, the taskforce facilitated a gap analysis and is seeking public comment on this document.

A report on the work of the Task Force report is being presented to the County Commissioners and the City Council to provide an update on activities to date and to extend an invitation to a public hearing on September 23, 2007.

The Task Force's work will impact the Core Area and Neighborhoods and Quality of Life goal

Mayor Brewer

Mayor Brewer thanked Mr. Focht and the Committee and recognized that we do have a homeless problem in this City and no one is really sure what to do about this problem. Stated there are some Cities that are doing some innovative things to solve this problem. Stated we need to ask ourselves what we are doing and look as some of those best practices. Stated we need to work as a City and sit down and look at this problem and take a real investment in it

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Cybill Strum

Ms. Strum resides at 326 North Walnut, stated that she is for this proposal and that she was once a homeless person. Ms. Strum asked that the Council support and help with this program.

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NEW COMMUNITIES NEW COMMUNITIES INITIATIVE PROGRAM SUPPORT.

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

Agenda Item No. 19.

On December 20, 2005, City Council authorized prepayment of the U.S. Department of Housing and Urban Development Section 108 note. Section 108 funds had been used to fund the Wichita Biz Loan program. Upon prepayment of the funds to HUD, the Biz Loan program was closed.

The New Communities Initiative (NCI) is a strategy designed to support and enhance successful families and sustain the communities in which they live. The New Communities Initiative:

- is supported by a wide coalition of state and local leaders from the public and private sectors, whose collective vision will help accomplish this goal;
- will start in a defined area in central and northeast Wichita, but will move to other areas of the city as goals are achieved;
- is working in five Pillar areas to create improved quality of life through coordinated service delivery and focused attention of all available resources.

On December 20, 2005, a loan to Power CDC in the amount of \$108,656 was listed as a Biz Loan activity. The developer, Power CDC, submitted a letter dated December 17, 2006 notifying the City that the project came in under budget and funds could be returned to the City. As of June 30, 2007, a balance of \$127,283.54 remained in the Section 108 Biz Loan Program Income account. Reallocation of \$103,980.10 will be used to support the New Communities Initiative program.

Support a Dynamic Core Area and Vibrant Neighborhoods

This budget adjustment exceeds \$10,000, and therefore requires City Council approval. All proposed Council actions and program activities are consistent with HUD regulations and requirements and the City of Wichita 2004/2008 Consolidated Plan, including advertising the required public hearing notice that allowed citizens to comment from August 11 through September 11, 2007.

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

Motion-- Brewer moved that the City Council close the public comment period and approve reallocation of Section 108 Biz Loan Program Income funds to establish the New Communities Initiative program, and authorize the necessary signatures. Motion carried 7 to 0.
--carried

2006 HUD 2006 HUD CONSOLIDATED PLAN ANNUAL PERFORMANCE AND EVALUATION REPORT. (DISTRICTS I, III, IV AND VI)

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

Agenda Item No. 20.

The City is required to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) for projects covered by the HUD Consolidated Plan. The 2006 CAPER documents the activities undertaken during the program year beginning July 1, 2006 and ending June 30, 2007 for the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) and the Emergency Shelter Grant (ESG) programs.

During the reporting period, residents of the City of Wichita received direct benefits from expenditure of CDBG, HOME and ESG funds. Funds were expended under the CDBG program for 19 capital improvement projects. Neighborhood Improvement Services provided grants and loans to homeowners for the rehabilitation of 225 residential structures and 12 neighborhood clean-ups were conducted. Public Service agencies received funds to assist 341 youth with summer employment and 4,706 youth participated in the after school recreation and enrichment program. The women's shelters served 500

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women and 466 children who were victims of domestic violence. Services were provided to an additional 2,238 persons through the domestic violence outreach programs. The HOME program assisted 49 households to secure affordable housing and 6 households received rehabilitation assistance through the Deferred Loan Program. The ESG program served 6,698 persons (cumulative) by providing short-term shelter, case management and other services to the homeless and victims of domestic abuse.

The total expenditures for the 2006/2007 program year were \$5,661,180: \$3,410,205 for the CDBG program; \$2,124,540 for HOME Investment Partnerships program; and \$125,818 in ESG expenses.

Support a Dynamic Core Area and Vibrant Neighborhoods

The City is required to provide an opportunity for citizens to review and comment on the CAPER prior to submitting the CAPER to the U.S. Department of Housing and Urban Development (HUD). The City published a notice in the Community Voice on August 9, 2007 and in the Wichita Eagle on August 10, 2007, advising that public comments would be accepted until September 4, 2007. The CAPER was made available to the public through the Neighborhood City Halls, Housing and Community Services Department, Planning Department, City Council Office, City Manager's Office, City of Wichita website and all branches of the Wichita Public Library.

Mayor Brewer

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

Motion--

Brewer moved that the City Council approve the HUD Consolidated Annual Performance and Evaluation Report, close the Public Hearing and authorize submission to the U.S. Department of Housing and Urban Development. Motion carried 7 to 0.

--carried

STREETSCAPE

SOUTH BROADWAY STREETSCAPE. (DISTRICTS I AND III)

Mary K. Vaughn

Housing and Community Services Director reviewed the item.

Agenda Item No. 21

On December 20, 2005, City Council authorized prepayment of the U.S. Department of Housing and Urban Development Section 108 note. Section 108 funds had been used to fund the Wichita Biz Loan program. Upon prepayment of the funds to HUD, the Biz Loan program was closed. In addition, the City wrote off 1982 Energy Loans as bad debt in December 2005.

The South Central Alliance has requested that the City review ways to enhance the viability of the South Broadway area and 2007-2008 CDBG Capital Improvement Funds have been tentatively slated for portions of this project. However, prior year unallocated funds are being proposed to fund the design study portion of this project.

The South Broadway Streetscape is a public facility activity that will support the area economic development and infrastructure improvements. Funds will be used to draft architectural design for streetscape improvements that will be located in the area of Kellogg and Broadway and Pawnee and Broadway. Expected outcomes are to help sustain existing business and possibly increase foot and automobile traffic to the area from low to moderate-income residents in the immediate neighborhood.

As of June 30, 2007, a balance of \$127,283.54 remained in the Section 108 Biz Loan, Program Income account and \$1,696.56 remained in the Energy Loan account. Reallocation of \$23,303.44 in Section 108 Program Income and the full balance of CDBG funds in the Energy Loan account, totaling \$25,000, will be used to support architectural design of the South Broadway Streetscape.

Support a Dynamic Core Area and Vibrant Neighborhoods

This budget adjustment exceeds \$10,000, and therefore requires City Council approval. All proposed Council actions and program activities are consistent with HUD regulations and requirements and the

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City of Wichita 2004/2008 Consolidated Plan, including advertising the required public hearing notice that allowed citizens to comment from August 11, 2007 through September 11, 2007.

The South Central Alliance has requested that the City review ways to enhance the viability of the South Broadway area and 2007-2008 CDBG Capital Improvement Funds have been tentatively slated for portions of this project.

Mayor Brewer

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

Motion--

Skelton moved that the City Council close the public comment period and approve reallocation of Section 108 Biz Loan Program Income and the 1982 Energy Loan funds to authorize the South Broadway Streetscape architectural design and the necessary signatures. Motion carried 7 to 0.

--carried

REAP

REGIONAL ECONOMIC AREA PARTNERSHIP WATER RESOURCES COMMITTEE.

David Warren

Water and Sewer Director reviewed the item.

Agenda Item No. 22

In January, 2004, the Regional Economic Area Partnership (REAP) executive committee invited member jurisdictions to participate in discussions to develop and recommend a strategy for joint action among local governments to address regional water issues. In October 2004, the REAP membership voted to approve the formation of the South Central Kansas Water Coalition. Among the objectives of the coalition are:

- To serve as a regional conduit for the dissemination of information regarding activities, programs, funding and initiatives related to water in the region.
- To serve as a regional voice on behalf of members to state and federal government and agencies.
- To develop and implement a regional water plan.
- To organize and coordinate collaborative efforts on regional issues of water supply and quality.
- To develop or organize services to member water utility operations.

At the May 14, 2007, meeting, REAPS delegates and directors voted to dissolve the South Central Kansas Water Coalition (SCKWC) and establish a Water Resources Committee (WRC) to carry out those objectives. As part of the establishment of the committee, REAP voted to transfer the assets of the SCKWC to the WRC and devise a budget and assessments for the committee.

The City of Wichita through its elected and appointed officials participated in the discussions leading to the formation of the SCKWC by REAP. Further, the City participated in the decision to dissolve the SCKWC and form the WRC (see attached report). The committee would have a part-time staff consisting of an executive officer and a graduate assistant. Local governments would share information and experiences, and jointly speak to water related issues before state and federal government agencies.

The annual budget for the committee and staffing is anticipated to be \$79,000. REAP members will be assessed based on size to cover the expenses. Wichita's assessment for July 1, 2007, to June 30, 2008, would be \$32,000 and for the balance of 2008 would be \$16,000. There are adequate funds in the Water Utilities 2007 budget to cover the assessment for 2007. The Water Utilities budget for 2008 can be amended to include the assessment for the balance of 2008.

The goal is to Ensure Efficient Infrastructure. Participation in regional partnerships provides opportunities for sharing information, increased voice in government and regulatory matters, and joint applications for grants having regional impact.

The City has the authority to participate in the Water Resources Committee of REAP and to pay the assessment, which is consistent with the REAP Interlocal Agreement.

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In January, 2004, the Regional Economic Area Partnership (REAP) executive committee invited member jurisdictions to participate in discussions to develop and recommend a strategy for joint action among local governments to address regional water issues. In October 2004, the REAP membership voted to approve the formation of the South Central Kansas Water Coalition.

Mayor Brewer

Mayor Brewer inquired whether anyone wished to be heard.

Cybil Strum

Ms. Strum resides at 326 North Walnut, asked where the money is going to come from and if this will increase the water bills.

David Warren

Water and Sewer Director stated that there will be no impact on the water bills in Wichita and is being reallocated from current water funds.

Motion--
--carried

Brewer moved that the City's participation and payment of the assessment be approved and the necessary signatures authorized. Motion carried 7 to 0.

BIKE PATH

MIDTOWN BIKE PATH ALONG THE ABANDONED UNION PACIFIC RAILROAD CORRIDOR, FROM CENTRAL AT WACO TO 15TH STREET AT BROADWAY. (DISTRICT VI)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 23

The 2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to construct a bike path along the abandoned Union Pacific Railroad corridor, from Central near Waco to 15th near Broadway. District VI Advisory Board sponsored a November 1, 2004, neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.

The project will link Irving, Horace Mann and Park Elementary Schools that are located adjacent to the proposed path, and will also link to North High School and the Little Arkansas Bike Path via 13th Street. The pathway will provide a safer environment for children who walk or bike to school. The project will also link the Midtown neighborhood to downtown businesses. Construction is planned to begin late this year and be completed by next spring.

The CIP budget is \$1,315,000, with \$715,000 paid by the City and \$600,000 paid by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.

This project addresses the Efficient Infrastructure and Quality of Life goals by constructing a bike path through the Midtown area.

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

2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to construct a bike path along the abandoned Union Pacific Railroad corridor, from Central near Waco to 15th near Broadway. District VI Advisory Board sponsored a November 1, 2004, neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.

Mayor Brewer

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

Motion--
--carried

Vice-Mayor Fearey moved that the project be approved; the Resolution adopted; and the signing of State/Federal agreements as required authorized. Motion carried 7 to 0.

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RESOLUTION NO. 07-522

A Resolution authorizing the issuance of bonds by the City of Wichita at large to construct a midtown bike path along the Union Pacific Railway Corridor from Central at Waco to 15th at Broadway. (472-84562), presented. Fearey moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

25TH ST. BRIDGE

25TH STREET BRIDGE REHABILITATION OVER LITTLE ARKANSAS RIVER. (DISTRICT VI)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 24

The 2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to rehabilitate the 25th St. Bridge over the Little Arkansas River. District VI Advisory Board sponsored a June 5, 2006, neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project.

The project consists of removing and replacing the existing sidewalk section and outer edge of each side of the bridge. A new wearing surface will be installed on the bridge deck. The new sidewalk will be six feet wide with traffic and pedestrian rails. The bridge lighting will be improved. Construction is planned to begin early next spring and be complete by summer. The bridge will be closed to traffic during construction.

The CIP budget is \$735,000 with \$175,000 paid by the City and \$560,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation bonds.

This project addresses the Efficient Infrastructure goal by rehabilitating a bridge on an important transportation route.

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

The 2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to rehabilitate the 25th St. Bridge over the Little Arkansas River. District VI Advisory Board sponsored a June 5, 2006, neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project.

Mayor Brewer

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

Motion--
--carried

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

BIKE PATH

BIKE PATH ALONG THE WEST BANK OF THE ARKANSAS RIVER, BETWEEN CENTRAL AND 13TH STREET. (DISTRICT VI)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 25

On March 6, 2007, the City Council approved a project for bike path improvements along the west bank of the Arkansas River, between Central and 13th. An attempt to award a construction contract within the project budget was not successful. An amending Resolution has been prepared to revise the budget.

Landscaped rest areas will be added to an existing bike path. Additional bike path will be constructed in some areas.

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The current budget is \$554,000, with \$110,000 paid by the City and \$444,000 paid by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. The proposed revised budget is \$919,000, with \$250,000 paid by the City and \$669,000 by Federal Grants. Funding for the budget increase is included in the 2007-2016 Approved Capital Improvement Program.

This project addresses the Efficient Infrastructure and Quality of Life goals by improving a bike path in a park area adjacent to a busy traffic corridor.

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

On March 6, 2007, the City Council approved a project for bike path improvements along the west bank of the Arkansas River, between Central and 13th. An attempt to award a construction contract within the project budget was not successful. An amending Resolution has been prepared to revise the budget.

Mayor Brewer

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

Motion--
--carried

Vice-Mayor Fearey moved to approve the revised budget, adopt the amending Resolution, and authorize the signing of State/Federal agreements as required. Motion carried 7 to 0.

ORDINANCE

An ordinance declaring the 25th Street Bridge at the little Arkansas River (472-84595) 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.

RESOLUTION NO. 07-523

A Resolution amending Resolution No. 07-160 authorizing the issuance of bonds by the City of Wichita at large to construct a bike path along the west bank of the Arkansas River, between Central Avenue and 13th Street (472-84405), presented. Fearey moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

21ST & BROADWAY

21ST STREET AND BROADWAY INTERSECTION IMPROVEMENT. (DISTRICT VI)

Jim Armour

City Engineer reviewed the item.

Agenda Item No. 26

The 2007-2016 Capital Improvement Program includes funding to improve the intersection of 21st Street and Broadway. On August 7, 2006, District VI Advisory Board held a neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the design concept and project.

The project will provide left turn lanes at all four approaches to the intersection. The traffic signal system will be upgraded. The project is planned to begin in the 2008. A significant amount of right-of-way acquisition will be required and a large Westar power line will be relocated. It is proposed that funding for right-of-way acquisition and utility relocation be approved at this time.

The budget requested at this time is \$2,000,000. The funding source is General Obligation bonds. Approval of right-of-way and utility relocation funding will expedite the project. The project will be returned to the City Council at a future date for consideration of the construction budget.

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

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

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The 2007-2016 Capital Improvement Program includes funding to improve the intersection of 21st Street and Broadway. On August 7, 2006, District VI Advisory Board held a neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the design concept and project.

Mayor Brewer

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

Motion--
--carried

Vice-Mayor Fearey moved to approve the design concept; place the Amending Ordinance on First Reading; and authorize the signing of State/Federal Agreements as required. Motion carried 7 to 0.

ORDINANCE

An ordinance amending ordinance no. 46-839 of the city of Wichita, Kansas declaring the intersection of 21st Street and Broadway (472-84295) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

MUNICIPAL COURT

AMENDMENT TO SECTION 1.04.070 OF THE CODE OF THE CITY OF WICHITA SETTING FORTH COSTS IN THE MUNICIPAL COURT.

Kay Gales

Municipal Court Administrator reviewed the item.

Agenda Item No. 27.

This ordinance amends Section 1.04.070 of the City Code and allows for increased court costs to partially offset the cost of Court operations. A review of court programs and associated costs was performed. The Municipal Court costs of \$30.50, with the exception of State mandated costs, have remained unchanged since 1995 although the costs of operation have increased.

This amendment permits the Court to increase court fees to partially offset the costs of court operations. Proposed amendments to the code are set out as follows:

- Amendment to subsection 1.04.070 (a) and (b) to increase municipal court costs by six dollars. This increase reflects a one-dollar technology fee, in order to maintain and improve the public safety and court computer systems, as well as provide technological advances to improve court, public safety, and prosecution responses to criminal conduct. The total amount of court costs would be fifty-six dollars, which reflects mandated costs imposed by the State of Kansas, in the amount of nineteen dollars and fifty cents. Court costs are assessed against each criminal, environmental, and traffic case, with the exception of parking violations that are paid without a court setting, and against those defendants acquitted of the violation charged.
- The amendment to 1.04.070 (e) permits a ten-dollar cost for each extension of time to pay a fine, penalty or costs granted by the clerk of municipal court, which is a partial offset for the staff time necessary to reflect the extension, document the extension with the Court, and calendar the matter for a subsequent setting.
- The amendment to 1.04.070 (h) increases witness fees from two dollars fifty cents per day, to ten dollars per day. Mileage allowance would increase from ten cents per mile to forty cents per mile for witnesses that have driven in excess of twenty miles. Witness fees and mileage expenses have not been increased in the last twenty years. The additional amount compensates witnesses commensurately with District Court fees, and increases mileage expenses to more accurately reimburse travel costs.
- Subsection 1.04.070 (i) would increase the bench warrant or probation violation warrant fee, when such is issued for alleged violation or failing to appear before the Municipal Court. This fee would increase from twenty-five dollars to thirty-five dollars.

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- The amendments to 1.04.070 (j) and 1.04.070 (k) allows for a five-dollar increase from fifteen to twenty dollars on those cases where a warrant is issued for failure to comply with a citation or when a reinstatement fee is collected pursuant to state statute and city ordinance.
- 1.04.070 (l) increases the probation fee from twenty-five dollars to fifty dollars. For indigent defendants, this fee may be reduced or waived.
- For those misdemeanor offenses as set out in K.S.A. 21-2501 that require an individual be fingerprinted before final disposition of the case, a fifteen dollar fingerprint fee is requested to be assessed as costs. In addition, a fifteen-dollar fee is included for urinalysis testing if court ordered.

Court costs will increase by six dollars to partially offset the rising expenses associated with operations of the Municipal Court. Included in this increase is a one-dollar assessment that will partially fund maintenance and upgrades to technology necessary to most efficiently address the daily operation needs of this Court. Being the largest municipal court in the State of Kansas, with one of the largest case filings, technological maintenance and advancements are necessary to keep the Court running effectively and efficiently.

Municipal Court helps achieve a Safe and Secure community by ensuring that all parties in the criminal justice system have access to an independent judiciary, and as such, judicially imposed orders are enforced.

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

Mayor Brewer

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

Motion--carried

Brewer moved to place the ordinance on first reading. Motion carried 7 to 0.

ORDINANCE

An ordinance amending section 1.04.070 of the code of the city of Wichita, Kansas, pertaining to costs and witness fees in cases before the municipal court judge and repealing the original of said section, introduced and under the rules laid over.

FLEET EQUIPMENT REPLACEMENT OF FLEET HEAVY EQUIPMENT.

Chris Carrier

Public Works Director reviewed the item.

Agenda Item No. 28.

Currently the City's Fleet is over \$14 million behind on motorized vehicle replacements, based on useful life expectancy guidelines as determined by the National Association of Fleet Managers (NAFM). This amount does not include non-motorized equipment, such as trailers and other towed equipment. Also, this number does not include utility operations. The City's utility operations are responsible for their own equipment replacement. The condition of those fleets is relatively good.

The 2007 Adopted Budget includes a reduction in Fleet rates on heavy equipment, and shifts heavy equipment replacement to the Capital Improvement Program (CIP). Heavy equipment must meet two criteria in order to be CIP-eligible: 1) the new equipment must have a 10-year service life; and 2) the equipment item being replaced must have been in service for 10 years or more. The service life is defined by NAFM standards, although the City may extend the NAFM service life from eight years to ten years for some equipment items. Equipment such as backhoes, bulldozers, dump trucks, and large tractors are defined as heavy equipment under these criteria.

The replacement CIP funding is \$3 million annually. The \$3 million annual allocation will allow Fleet to replace heavy equipment on the schedule recommended by NAFM. The current annual replacement

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need for heavy equipment is over \$1.5 million per year. The funds in excess of the replacement amount will be used to address the backlog.

In addition to reducing General Fund fleet expenditures, shifting heavy equipment replacement to the CIP allows the Fleet fund to purchase more vehicles with shorter useful lives (light vehicles). Funding to replace pickups, sedans and police cruisers will be increased as pressures to replace heavy equipment from the operating budget are reduced.

The funding source is General Obligation bonds. The amount is \$6.0 million, \$3 million each year for 2007 and 2008. The Fleet Heavy Equipment Replacement project is included in the 2007-2016 CIP.

Replacement of heavy equipment directly supports the Efficient Infrastructure and Core Area/Neighborhoods Goals by replacing street and park maintenance equipment. Heavy equipment replacement indirectly supports the Safe and Secure Community Goal by reducing the competition for limited replacement funding.

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

Mayor Brewer

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

Motion--
--carried

Brewer moved that the City Council approve the project, place the Ordinance on First Reading, and authorize the necessary signatures. Motion carried 7 to 0.

ORDINANCE

An ordinance determining the necessity for acquiring fleet vehicles and equipment, and providing that the cost of said acquisition shall be paid by the city of Wichita, Kansas, at large through the issuance of general obligation bonds of the city of Wichita, Kansas, under the city's home rule authority as set out in article 12, section 5, of the constitution of the state of Kansas, introduced and under the rules laid over.

G.O. BOND SALE

LOCAL SALES TAX GENERAL OBLIGATION BOND SALE.

Kelly Carpenter

Director of Finance reviewed the item.

Agenda Item 29.

Background: The City is offering for sale one series of local sales tax general obligation bonds in an amount not to exceed \$40,500,000 (Series 2007) for the purpose of providing permanent financing for freeway capital improvements of the City.

Analysis: The proceeds from the sale of the general Obligation Sales Tax Bonds, Series 2007 Bonds will be used to permanently finance City-at-large Kellogg freeway improvements. Sealed bids will be accepted via facsimile or electronically through I-Deal, LLC/PARITY Electronic Bid Submission System until 10:30 a.m. CST in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:30 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds to the bidder whose proposed interest rates result in the lowest true interest rate.

Financial Considerations: The Series 2007 Bonds will mature serially over twenty years and will be paid from the City's portion of funds derived from a one percent (1%) county-wide retailers' sales tax that is dedicated by Ordinance 41-815 to paying the costs of local road, highway and bridge improvements, including right-of-way acquisitions. The Series 2007 Bonds will be callable in 2014 with a 1% call premium, in accordance with the City's debt management policy.

Goal Impact: This item directly and favorably influences indicators for maintaining a safe and dependable transportation system and improving financial management. It indirectly impacts other

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indicators in a favorable way, such as improving response times, optimizing the City's assets and contributing to citizens' sense of quality of life.

Legal Considerations: Bond Counsel will review and approve the bids and the Law Department will approve the authorizing Ordinance and Resolution which have been prepared by Bond Counsel.

Mayor Brewer

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

Motion--
--carried

Brewer moved to approve the project; place the Ordinance on first reading; and authorize the necessary signatures. Motion carried 7 to 0.

ORDINANCE

An ordinance authorizing and providing for the issuance of general obligation sales tax bonds, series 2007, of the city of Wichita, Kansas, in the total principal amount of not to exceed \$40,500,000, for the purpose of providing the necessary funds to pay costs in connection with the construction of roads, highways and bridges in the city; pledging a portion of the county retailer's sales tax revenues allocated to the city for the payment of the principal of and the interest on the bonds as they become due; providing for the levy and collection of an annual tax for the purpose of providing for the payment of any portion of the principal of and the interest on the bonds not paid from said sales tax revenues; and making certain other covenants and agreements with respect to the bonds, introduced and under the rules laid over.

RESOLUTION NO. 07-524

A Resolution authorizing and providing for the issuance of General Obligation sales Tax Bonds, Series 2007, of the City of Wichita, Kansas, in the total principal amount of \$40,500,000, for the purpose of providing the necessary funds to pay costs with the construction of roads, highways and bridges in the City; prescribing the terms and details of the Bonds; pledging a portion of the County Retailers' Sales Tax revenues allocated to the City for the payment of the principal of and the interest on the bonds as they become due; providing for the levy and collection of an annual tax for the purpose providing for the payment of any portion of the principal of and the interest on the bonds not paid from said sales tax revenues; and making certain other covenants and agreements with respect to the bonds, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

PLANNING AGENDA

CON2007-00028

CON2007-00028-CITY CONDITIONAL USE FOR A DRINKING ESTABLISHMENT ON PROPERTY ZONED "LC" LIMITED COMMERCIAL. GENERALLY LOCATED ON THE SOUTHEAST CORNER OF 13TH STREET NORTH AND LORRAINE AVENUE, 3105 EAST 13TH STREET. (DISTRICT I)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 30.

The applicant requests a Conditional Use for a nightclub in an existing building, currently vacant, but in the past operated as a non-conforming nightclub in the city and most recently a Class A private club. Nightclubs are a permitted use in the LC district, but require a conditional use when located within 200 feet of residential zoning. The application area is currently permitted for a restaurant/drinking establishment (DE-R, requiring that greater than 50% of sales come from food); the site is not permitted for an outright tavern, drinking establishment or nightclub. The applicant's site plan indicates that the nightclub conditional use property is 45 feet from developed single-family residential property. The proposed nightclub building is approximately 95 feet from single-family residences.

The .50-acre site is located on the south side of 13th Street North, approximately 220 feet west of Hillside Avenue. The character of the surrounding area is that of limited commercial uses along the Hillside Avenue corridor and single-family residential uses to the west of that corridor, surrounding the

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application area to the north, south and west. One single-family residence abuts the parcel owned by the applicant, two other single-family residences to the west of the subject site, across Lorraine Street and one single-family residence to the north, across 13th Street North.

At the MAPC hearing on August 2, 2007, there was one citizen who spoke in opposition of the request, and one police officer who offered some additional information regarding the proposed nightclub. The citizen's concerns revolved around the increase of traffic, trash, noise and crime in a residential zone. Staff received an appeal from the applicant in response to the MAPC decision. The MAPC voted (12-1) to recommended denial of the request.

Promote economic vitality.

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

Motion--
--carried

Williams moved to concur with the findings of the MAPC and deny the request for a conditional use. Motion carried 7 to 0.

CUP2007-00007

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

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 31.

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

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

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

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

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

New buildings would have uniform architectural compatibility to the new development occurring directly to the east of the subject site, Parcel 10, in terms of character, color, texture and materials, and exterior walls facing residential would not be metal siding. The parcel would share a similar landscape

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palette as the development just east of the subject site. A site plan would be required to assure internal cross lot circulation, joint access and smooth traffic flow.

District Advisory Board I was initially scheduled to hear this request on March 7, 2007, however the applicant was not present, and the DAB asked for the case to be returned at the April hearing. At the MAPC meeting held March 15, 2007, MAPC voted (12-0) to approve the CUP amendment and zone change. At District Advisory Board I on April 2, 2007, the DAB voted (7-0) to approve the zone change for the property, but the DAB recommended the applicant meet with the Northeast Heights and Crestview Heights Neighborhood Associations in regards to two uses proposed in the CUP amendment (Restaurant and Convenience Store uses).

The Chisholm Trail, Northeast Heights and Crestview Heights Neighborhood Associations met with the applicant and staff at a meeting on April 26, 2007. At that meeting, the association members expressed their dislike of two proposed uses, restaurant and convenience stores. The associations were also concerned about the likelihood of a possible restaurant becoming a drinking establishment and/or nightclub. The final determination by the associations was to have the City Council defer making a decision on the case so the associations could have more time in developing proposals for the City of Wichita to purchase the subject property for the use as open space. The neighborhood associations will meet again in May to develop a proposal to present to the District Advisory Board I for consideration and to forward the proposal to the City Council. If this proposed purchase is not possible, the associations support the removal of restaurant and convenience stores from the list of proposed uses. No protests have been received on the rezone.

Promote Economic Vitality.

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

Motion-- Williams moved to concur with the findings of the MAPC; approve the amendment and zone change to the CUP DP-8, Parcel 9; and approve the first reading of the ordinance establishing the zone change.

Amended Motion-- Vice-Mayor Fearey moved to amend the motion to include the exclusion of the restaurants and --carried convenient stores. Motion carried 7 to 0.

ORDINANCE

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

ZON2007-18

ZON2007-18 – ZONE CHANGE FROM “SF-5” SINGLE-FAMILY RESIDENTIAL TO “LC” LIMITED COMMERCIAL; LOCATED ON THE NORTH SIDE OF KELLOGG, EAST OF HEATHER ROAD, 8201 EAST PEACH TREE LANE. (DISTRICT II)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 32.

The applicant owns a 90-foot wide by 140-foot deep platted lot (west 90 feet of Lot 1, Block 7, Bonnie Brae Addition) that contains 12,600 square feet, is zoned SF-5 Single-family Residential, and is developed with a single-family residence. Staff is advised the residence is a rental. The lot is located at 8201 East Peach Tree, which is the southeast corner of Peach Tree Lane and south Heather Road, and adjoins land to the south and east (Lot 6, Ruth Addition and Lot 4, Higgens-Andeel 2nd Addition) that have frontage on East Kellogg's north frontage road. These two lots (Lot 6 and Lot 4) are zoned LC Limited Commercial and developed with the Wichita Inn East and parking that supports the inn. The applicant proposes to sell the southern 29 feet, 2,610 square feet, of the subject lot to the adjoining property owner to the south, CAP Partnership, which operates the Wichita Inn East.

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Lot 6, Ruth Addition, the western end of the Wichita Inn's site, is located immediately south of the subject property and is partially developed with parking that supports the motel. Lot 6 was originally much deeper, but with improvements to East Kellogg, the lot is now approximately 118 feet deep. Adding 29 feet from Lot 1 to the Inn's land area would provide an approximately 147-foot deep lot that would more useable. One of the Inn's partners has indicated the area could be used for additional landscaping and a swimming pool. The Inn's property is zoned LC and the request for the subject property is also LC so other uses are possible. Parking is probably the limiting factor for potential uses. Vacation of Heather could potentially add LC zoned land to the area.

The sale of a portion of a residential lot developed with a single-family home is somewhat unusual, however, the configuration of the applicant's lot and lots adjacent to the subject site have contributed to this unusual situation. The applicant's lot was originally part of an "Oklahoma" shaped lot with a "panhandle" that extended east from the applicant's current rectangle shaped lot. As mentioned above, the applicant's lot is currently 140 feet deep, north to south. The "panhandle" portion of the original lot was only 67 feet deep (north to south) by 99 feet wide (east to west). At some point, Lot 1 was split to create the two portions of Lot 1 that currently exists. Because of this somewhat unusual lot configuration, the land to the south (Lots 2 and 3 of the Higgen-Andeel 2nd Addition) extends further north than the lots located east and west of these two lots, creating an irregular boundary where LC zoning projects further north on these two lots than on the lots located to the east and west.

If the request is approved, the home site would still retain 9,990 square feet of lot area, which is well within the minimum lot area requirement for this zoning district, and there would be approximately 26 feet from the house to the new lot line. There is an eight-foot platted utility easement located along the existing south property line that has a sewer line located within the easement. If a building is placed on the site, the utility easement will have to be addressed to ensure that lot containing the home still has legal access to utilities. It will also be necessary to ensure that the residential lot abuts a utility easement. A boundary shift will need to be obtained. In addition to the utility easement, construction on the site will trigger applicable code required setbacks, landscaping, screening and height considerations.

The land north, east and west of the site are part of the Bonnie Brae neighborhood, zoned SF-5, Single Family Residential and are developed with single-family homes. The lot to the east of the application area is only 67 feet deep so the applicant's lot already has LC zoning along its eastern boundary for a distance of 72 feet. Heather Road separates the applicant's property from the property located to the west. Currently, both the applicant's lot and the neighboring lot to the west (across Heather) rear property lines terminate at the same depth from Peach Tree Lane, where Heather is fenced and closed to through traffic. Approval would introduce 29 feet of LC zoning further north than the rear of the property owner's lot to the west of the subject site.

District Advisory Board (DAB) II was to have heard this request on June 4, 2007. However, the DAB did not have a quorum so a vote was not taken. District Advisory Board II heard the request on July 9, 2007. Their action was to recommend denial by a vote of 10-0.

MAPC heard this request on July 19, 2007. Several members of the public spoke in opposition. They expressed concern regarding commercial encroachment into their neighborhood. MAPC recommended approval per staff recommendations, plus the applicant was to try to obtain a minor street permit and complete the fence across Heather Road (11-2). This recommendation was made to address citizen comments regarding foot traffic coming into Bonnie Brae from the commercial area.

Protest petitions equaling 20.19 percent have been filed. Protests greater than 20 percent trigger a $\frac{3}{4}$ majority vote (6 members voting to approve) by the City Council to approve the request, and override the neighbor's protest.

This case was deferred from the City Council meeting of August 21, 2007, to allow for further discussions between the developer and neighbors. The Bonnie Brae Home-Owners Association has voted to recommend denial of the application.

Promote Economic Vitality.

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

Council Member Longwell Council Member Longwell asked if we were to grant a rezoning can we put a protective overlay and say that the only thing that can be built there is some kind of access or roadway.

John Schlegel Planning Director stated that could be a possibility and option.

Council Member Longwell Council Member Longwell stated he is still struggling and it looks like they are trying to work out combinations with the neighborhood and maybe that would be an opportunity to continue this.

Vice-Mayor Fearey Vice-Mayor Fearey asked if we deny this today and they decide to come back with this type of thing and all they want to do is the overlay, could they bring this back in six months and would that be a substantial change?

John Schlegel Planning Director stated they would have to wait the six months.

Council Member Gray Council Member Gray stated one of his concerns is that the people protesting this are not the people living in this immediate area. No one protesting it verbally lives on Peachtree. Asked how are the people in this neighborhood actually affected in a negative way because this property is going to move over 29 feet, does not see that this is actually putting a hardship on any one person.

Mayor Brewer Mayor Brewer asked if this in not approved then that business would not be able to do any kind of expansion.

John Schlegel Planning Director stated not necessarily it would just not be able to do expansion in the way that they might want to in the future, it would restrict their options.

Council Member Schlapp Council Member Schlapp stated it is the encroachment issue on the neighborhood and the reason that it is not just the people who live there but the entire neighborhood that is involved and once the neighborhood allows or have commercial encroachment come into the area then it is kind of a "slippery slope." Stated this is the third issue in this area and that neighborhood will be affected. Stated the encroachment and changing it into commercial is the difficult part. Stated she feels there is a way to solve this and that there are other options that would not require the rezoning to limited commercial. Stated if we deny this and do not have encroachment come into the neighborhood, that we can come up for another possibility because we all agree that the enhancement of the motel itself is a benefit to everybody. Stated she is going to move to deny with the idea that they meet immediately and discuss this option where she has great hopes that it will resolve this entire issue for everybody.

Council Member Longwell Council Member Longwell stated that if we put some kind of protective overlay saying that is the only way use that can be done in that 29 feet then haven't we accomplished the same thing and how difficult is it to reverse that. Asked if they could override that protective overlay in any way or does it come back to some future council just like a zoning change.

Council Member Schlapp Council Member Schlapp stated in order to do that it would have to be rezoned and the problem with the neighborhood is that as you start to rezone commercial into the neighborhood they and she considers that encroachment. Stated if there is a way to get the access road without changing the zoning and if we can do it without requiring the zone change, then we can come up with a solution. Therefore, it is not the same thing and she believes we can do this without the zone change.

Council Member Longwell Council Member Longwell stated his only hesitation with voting on this today is that he does not fully understand how we are going to resolve this and if it does not get resolved, require the applicant to wait six months before they can come back before the Council. Stated he would prefer to look at deferring this one more time to see if the Council can understand what potentially will resolve this issue before they are forced to vote on it and forced to make the applicant wait six months.

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Council Member Schlapp Council Member Schlapp stated she will still be going for a denial because of the encroachment and does know what the solution they will be discussing is and feels that the denial is not going to change whether we defer it this week or next week. Stated she is never against a deferral but does not think it is going to change the vote and the protest petition will still be valid. Stated that it seems that the denial is probably going to happen anyway so the discussions to go on and find another solution will happen anyways.

Motion-- Council Member Longwell moved to defer this and make a suggestion that we defer it for two weeks.
--failed Motion failed 3-4, (Nays-Brewer, Fearey, Schlapp, and Williams)

Motion-- Schlapp moved to deny because of the request that will encroach into the residential area and change the zoning to commercial based on the character of the neighborhood and with the neighborhood to the north wanting to preserve its residential stature and the reasons that are shown in the agenda report: the letter from the neighborhood association; the valid protest petition; and the DAB vote of 10 to 0, to the extend to which the removal of restrictions will detrimentally affect the nearby property and the same three reasons will show that . The Council should continually work with the developer and find a way to resolve this without encroachment and changing of the zoning to commercial. Motion failed 4-3, (Nays-Gray, Longwell, and Skelton)
--failed

John Schlegel Planning Director explained that since a denial motion would be an override of the Planning Commission's recommendation it requires a 2/3 supermajority vote, which would be five votes, therefore this motion fails. Stated it would require six votes to be approved and if there are not six votes then it also fails.

Motion--failed Schlapp moved to approve. Motion failed, 5-2, (Nays-Fearey and Schlapp)

John Schlegel Planning Director stated that the request is denied because there was no approval.

Gary Rebenstorf Director of Law stated there needs to be affirmative action to approve and since there was no affirmative action it was denied.

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

John Schlegel Planning Director reviewed the item.

Agenda Item No. 33.

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

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

The applicant's ownership includes a strip of “MF-29” zoned land abutting the subject site on the west and south. Further west and south on the owner's property is a band of “SF-5” Single-family Residential zoning. The “SF-5” zoned land on the west is to be put into a “reserve” area on the Campus

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

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

This application was heard by the City Council on August 7, 2007 and August 14, 2007, and the action of the Council was to defer the item.

District Advisory Board I reviewed the case on August 7, 2007, and recommended denial (10-0) due to neighborhood concerns regarding public notice, traffic, drainage, loss of property value and pollution. This item was also presented to the Northeast Heights Neighborhood Association for input and comment on August 23, 2007. The neighborhood association took no formal action at that time; however, neighbors expressed many of the same concerns expressed at the DAB meeting. This has been rescheduled to be heard by DAB I on September 10, 2007.

No formal protests have been received on this case.

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

Promote economic vitality.

- Vice-Mayor Fearey Vice-Mayor Fearey asked if this would need to go to MF-29 or could it go to MF-18.
- John Schlegel Planning Director stated he was calculated out and determined that it would have to be MF-29.
- Vice-Mayor Fearey Vice-Mayor Fearey stated she recalculated and took 10.94 acres and multiplied by 18 and came up with 196.2, which is almost 197 and then this could be an MF-18.
- John Schlegel Planning Director stated yes, MF-18 would be sufficient.
- Vice-Mayor Fearey Vice-Mayor Fearey stated if we rezone to MF-29 then what is before the Council today, they could turn around and sell it and go up to MF-29 and if we did a MF-18, that would keep them to the 196 units.
- John Schlegel Planning Director stated yes.
- Council Member Williams Council Member Williams asked as we move forward that the developer work very closely with the surrounding community as DAB I has many neighborhood associations. Requested that the developer and community work as close together as possible. Stated there is great concerns over the floodwater, stormwater, and retention pond and asked that we collect that kind of water as much as possible and be attentive to those neighbors who already are having problems in that area with flood water as we continue to develop along that area.
- Motion-- Williams moved to concur with the findings of the MAPC and look at zoning MF-18 as opposed to MF-29; approve the zone change subject to platting within one year; withhold publication of the ordinance --carried establishing the zone change until the plat is recorded. Motion carried 7 to 0.

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ORDINANCE

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

A07-10R

A07-10R-THE UNILATERAL ANNEXATION OF ELIGIBLE PROPERTIES GENERALLY LOCATED NORTH OF 13TH STREET NORTH, TO THE EAST AND WEST OF 143RD STREET EAST. (DISTRICT II)

*****PUBLIC HEARING TO BE HEARD AT 7:00 P.M. AT EAST POINT CHURCH OF CHRIST, 747 NORTH 127TH STREET EAST*****

SUB2007-58

SUB 2007-58-PLAT OF KING'S COURT ADDITION LOCATED WEST OF HOOVER AND SOUTH OF MAPLE. (DISTRICT V)

Agenda Item No. 35.

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

This site, consisting of four lots on 1.14 acres, is located within Wichita's city limits. This site is zoned "SF-5" Single-Family Residential District.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for sewer, water, paving and drainage improvements. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the platted reserves. Since this site is located near Mid-Continent Airport, an Avigational Easement and Restrictive Covenant have been submitted to assure that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

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

Ensure Efficient Infrastructure.

The Certificate of Petitions, Avigational Easement and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--
--carried

Brewer moved to approve the documents and plat, authorize the necessary signatures, and adopt the Resolutions. Motion carried 7 to 0.

RESOLUTION NO. 07-525

Resolution of Findings of Advisability and Resolution authorizing construction of Lateral 68, Main 4, Southwest Interceptor Sewer, west of Hoover, south of Maple, 468-84406, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

RESOLUTION NO. 07-526

Resolution of Findings of Advisability and Resolution authorizing improving Storm Water Sewer No. 634, west of Hoover, south of Maple, 468-84407, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Fearey, Gray, Longwell, Schlapp, Skelton, Williams and Brewer.

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AIRPORT AGENDA

AIRPORT

MID-CONTINENT AIRPORT - TAXIWAY L, H, AND H-1 - CHANGE ORDER NO.4.

Agenda Item No. 36.

On August 9, 2005 the Wichita Airport Authority approved a contract with Cornejo & Sons for construction of Taxiway L, H and H-1.

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

The change order amount reflects a reduction of \$92,057.99. With this change order the cost of change orders is approximately 1% of the initial construction contract amount.

The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements.

The change order has been approved by the Law Department as to form and is pending approval of the FAA.

Motion--
--carried

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

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BOARD APPTS.

BOARD APPOINTMENTS.

There were no appointments to be made.

RECESS

EXECUTIVE SESSION.

Motion--

Brewer moved that the City Council recess into Executive Session at 12:50 p.m. to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation and legal advice and that the Council return from Executive Session no earlier than 1:30 p.m. and reconvene in the MAPC Meeting Room on the tenth floor of City Hall. Motion carried 7 to 0.

--carried

RECONVENED

The Council reconvened into the MAPC meeting room at 1:40 p.m. Mayor Brewer announced that no action was taken.

Motion--carried

Brewer moved to close the Executive Session at 1:40 p.m. Motion carried 5 to 0, (Skelton and Williams absent).

RECESS

Motion--

Brewer moved to recess the City Council Meeting until 7:00 p.m. to hear A07-10R at East Point Church of Christ, 747 North 127th Street East. Motion carried 5 to 0, (Skelton and Williams absent).

--carried

Workshop followed in the MAPC 10th floor Meeting Room

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MINUTES OF THE MEETING OF THE A07-10R PUBLIC HEARING

Wichita, Kansas, September 18, 2007
Tuesday, 7: 05P.M.

The City Council met with Mayor Brewer in the Chair. Council Members Fearey, Schlapp, and Williams present. (Gray, Longwell, and Skelton not present).

George Kolb, City Manager; Jay Hinkle, Law Department, Karen Sublett, City Clerk; present.

A07-10R

A07-10R-THE UNILATERAL ANNEXATION OF ELIGIBLE PROPERTIES GENERALLY LOCATED NORTH OF 13TH STREET NORTH, TO THE EAST AND WEST OF 143RD STREET EAST. (DISTRICT II)

John Schlegel

Planning Director reviewed the item.

Agenda Item No. 34.

On July 17, 2007, the City Council adopted a resolution that established a public hearing date of September 18, 2007, at 7:00 p.m. at the East Point Church of Christ (747 North 127th Street East), for consideration of this unilateral annexation initiative. The unilateral annexation method is being used as a result of a series of water petitions that were signed by either previous or present property owners within the Savanna at Castle Rock Ranch area. These petitions serve as a formal request for the City of Wichita to provide water service to areas outside the corporate city limits. These petitions also contain legally binding language in which the property owner is consenting to annexation by the City of Wichita at such time the City deems appropriate. This past year, the City of Wichita's city limits expanded, making the Savanna at Castle Rock Ranch eligible for annexation. Due to irregularities that occurred several years ago in the recording and filing of a certain number of the water petitions, it has been determined that unilateral annexation is the most efficient and effective method of annexing this development into the City.

The properties proposed for annexation are generally located north of 13th Street North, to the east and west of 143rd Street East. This proposed annexation contains approximately 187.33 acres of platted property, containing Savanna at Castle Rock Ranch, 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th and 10th Additions. The subject property contains a total of 256 parcels, and it is estimated that approximately 561 people live within this area. The land use pattern of the area proposed for annexation is predominately residential (228 tracts) in nature. There are a few (25) vacant/community amenity tracts and (3) agricultural tracts scattered throughout the area.

Land Use and Zoning: The majority of the subject property under consideration is zoned "SF-20" and "SF-5" Single-Family Residential, with a few parcels zoned "GO" General Office. The properties zoned "SF-20" Single-Family Residential will convert to "SF-5" Single-Family Residential upon annexation, while other properties will retain their existing zoning. This area is almost completely developed.

The developed properties within the annexation area are currently served with water by the City of Wichita as a result of a series of petitions. It is estimated that approximately 95% of the developed properties within the annexation area are currently served with sewer by the City of Wichita.

143rd Street East is a two-lane, paved road, which runs through Savanna at Castle Rock Ranch area. 143rd Street East, between 13th Street and 21st Street, was constructed approximately 5 to 10 years ago, and it meets the County standard with open ditches. 13th Street North runs along the south edge of the subject property and is currently under construction. 13th Street North is currently being widened to a four-lane road from K-96 to 159th Street East.

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In addition, the City of Wichita Capital Improvement Program (CIP) 2007-2016, the 2006 Transportation Improvement Program and the Sedgwick County Capital Improvement Program 2008-2012 have scheduled improvements to widen 21st Street North from K-96 to 159th Street East. 21st Street North is approximately 1/2 mile north of the subject property. Construction is projected to begin in 2008.

Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita and Sedgwick County will provide fire protection from Fire Station No. 38-6, located at 1010 North 143rd Street with a two (2) to three (3) minute response time. Upon annexation, police protection will be provided to the area by the Patrol East Bureau, Beat 39, of the Wichita Police Department, headquartered at 350 S. Edgemoor.

The Northeast Sports Complex, a 60-acre undeveloped park, and Stryker Soccer Complex, a 48-acre athletic complex, are located approximately 3 1/2 miles to the northwest of the proposed annexation site and currently contain 12 soccer fields, a concession stand, restrooms and paved parking. The WB Harrison Park, a 40-acre park, is located approximately 5 miles to the southwest of the proposed annexation site and contains 2 tennis courts, a softball diamond, a rugby field, a children's play area with 3 benches, a restroom, a paved 0.75-mile exercise/fitness trail, a fishing pond and two parking areas, one paved and one unpaved. The Eastview Park, a 20-acre park, is located approximately 4 miles to the west of the proposed annexation site and contains a paved 0.77-mile fitness trail with 20 exercise stations, a softball diamond, two lighted tennis courts, a soccer field, a children's play area with three benches and a paved parking area. A potential 14-acre future park site has been purchased on Central Avenue to the east of Greenwich Road. According to the 1996 Parks and Open Space Master Plan, a potential pathway has been identified in the BNSF Rail Corridor that has been rail banked by the City of Wichita. This potential pathway would run along the northern edge of the annexation area. The proposed park and pathway improvements are not currently funded in the Capital Improvement Program.

The annexation property is part of the Unified School District 385 (Andover School District). Annexation will not change the school district.

On August 16, 2007, the Wichita-Sedgwick County Metropolitan Area Planning Commission reviewed the proposed annexation for compatibility with the Comprehensive Plan. The staff report presented at the MAPC meeting indicated that the proposed annexation property falls within the 2030 Wichita Urban Growth Area and is in conformance with the Wichita-Sedgwick County Comprehensive Plan. The MAPC unanimously (vote 11-0) found the annexation in conformance with the Comprehensive Plan.

The total appraised value of the proposed annexation lands, according to County records, is \$88,264,880 with a total assessed value of \$10,146,662. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$319,948 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. Major municipal services to be provided to this area upon annexation include street maintenance, ditch cleaning, culvert cleaning, fire protection, police protection, building code enforcement and health code enforcement. The operating departments currently delivering these services will fund them upon annexation. Major municipal services, such as local street improvements and/or water and sewer service may be provided to this area upon request of the property owners. The cost of municipal services requested by the property owners will be distributed amongst the City at large and the benefiting property owners, according to current City policies.

The Police Department determined that to adequately plan for the increase in population and police protection to this area, an additional police officer, a portion of a staff position (clerk/detective) and a portion of a fleet increase should be requested during the next budget cycle. In the meantime, the City of Wichita will provide police services with existing resources.

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Approving the annexation request would impact Wichita's Quality of Life Goal to ensure citizens receive a positive return on all of their quality of life investments.

In the absence of an annexation request from a property owner, State law requires the adoption of a resolution by the City Council indicating the City's intent to annex, a description of the property to be annexed and a notice of the time and place for a public hearing to consider the matter. City Council approved the resolution on July 17, 2007, and copies of the resolution establishing the public hearing, a map showing the properties included, and notice of the public hearing were sent, within 10 days thereafter, by certified mail to all property owners of record in the proposed annexation area, and to other established governmental entities and utility services. The Wichita-Sedgwick County Metropolitan Area Planning Commission unanimously found the proposed annexation consistent with the Wichita-Sedgwick County Comprehensive Plan on August 16, 2007. Copies of the resolution and map were also published in the official City newspaper (on September 7, 2007) not less than one week, and not more than two weeks prior to the public hearing date, as further notification of the scheduled public hearing. A copy of the Service Extension Plan was placed on file in the City Clerk's Office. The subject properties as described in the annexation ordinance under consideration by City Council are currently eligible for annexation under K.S.A. 12-519, et seq.

In conducting the public hearing, Kansas State statutes require that the City's plan for extending major municipal services be presented and that all persons interested in the annexation be heard. After hearing all comments of the persons interested, the City Council has the option of continuing or closing the public hearing and approving or rejecting the annexation proposal.

- Mayor Brewer Opened the Public Hearing.
- Jerry Overly Mr. Overly resides at 1700 Freedom Road asked if the majority of the people in Savannah at Castle Rock do not wish to be annexed, can the City annex them anyway.
- Jay Hinkle Law Department stated yes and that the City has the right to consider annexations after providing notice to the property owners and receiving comments. Stated the property owners would have the right to appeal to district court.
- Fred Baker Mr. Baker resides at 1401 North Sport Kings Court, referred to the color shaded City maps and inquired about annexing other parts of land.
- John Schlegel Planning Director referred to the maps and explained that the petition filed by the developer was done due to some irregularities when this land was platted and if there had not been these irregularities then this would have been a voluntary annexation.
- Council Member Schlapp Council Member Schlapp stated this whole area at one time was to fall into annexation and we are just finishing it out.
- Jerry Overly Mr. Overly stated if the majority of the people do not desire this, the Council will not annex correct?
- John Schlegel Planning Director stated that generally speaking the City prefers voluntary annexations but it was always contemplated in order for those services to be available that this would be annexed.
- Jerry Overly Mr. Overly stated that no one had ever told him that there were plans for annexation.
- Joe Yonkin Mr. Yonkin resides at 1621 North Stagecoach Court, had questions regarding stormwater drainage.
- Chris Carrier Public Works Director explained and said that the City will not go onto private property but there will be staff available for questions and solutions to any problems and they will work with them and help them out if they have problems.
- Joe Yonkin Mr. Yonkin asked what the mill levy difference would be between the City taxes versus what they would lose from the county if this annexation goes through.

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- John Schlegel Planning Director referred to a hand out that was made available to everyone who was in attendance and discussed the different scenarios that were listed on the handouts.
- Jerry Overly Mr. Overly asked if they are to be annexed if the City's laws would supersede the county's laws such as dogs and cats being tagged by the City and fencing being put around swimming pools.
- Jay Hinkle Law Department stated yes.
- Motion--
--carried Brewer moved that at 7:30 p.m. the Public Hearing be closed; the unilateral annexation be approved; the ordinance placed on first reading; and the necessary signatures authorized. Motion carried 4 to 0, (Gray, Skelton, and Longwell absent).

ORDINANCE

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas, introduced and under the rules laid over. (A

ADJOURNMENT

- Motion--carried Brewer moved to adjourn the regular meeting at 7:31 p.m. Motion carried 4 to 0, (Gray, Skelton, and Longwell absent).
- The meeting was adjourned at 7:31 p.m.

Respectfully submitted,

Karen Sublett, CMC
City Clerk