



MINUTES

City Council Meeting

6:30 PM - Tuesday, August 27, 2019
Council Room

1 CALL MEETING TO ORDER

The City Council of the City of Derby, Kansas was called to order on August 27, 2019, at 6:30 p.m., in the Council Room.

2 FLAG SALUTE

Council Member Tom Keil led the flag salute.

3 INVOCATION-- PASTOR LANCE CARRITHERS, WOODLAWN UNITED METHODIST CHURCH

4 ROLL CALL

PRESENT: Council Member Rocky Cornejo
Council Member Jack Hezlep
Council Member John McIntosh
Council Member Cheryl Bannon
Mayor Randy White
Council Member Andrew Swindle
Council Member Tom Keil
Council Member Vaughn Nun
Council Member Mark Staats

ABSENT:

5 CONSIDERATION OF MINUTES

a) Adoption of Minutes

Tom Keil moved, seconded by Andrew Swindle, to approve the regular meeting minutes, as presented.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Andrew Swindle
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Vaughn Nun, and Mark Staats
ABSTAINED:	Tom Keil

6 PUBLIC FORUM

7 PRESENTATIONS

a) 2019 Derby BBQ & Music Fest and McConnell Air Force Base Presentation

Kristy Bansemer, Director of Communications, presented the agenda report.

BACKGROUND:

- The City is pleased to present a gift of \$2,000 to the Airman & Family Readiness Center at McConnell Air Force Base to support its mission.
- The 9th annual Smoke on the Plains Derby BBQ & Music Fest was held at High Park on June 6, 7 & 8, 2019.
- The goal of the event is to attract new people to Derby and provide a fun, affordable event for Derby residents.
- Additions to the event this year included a music fest and carnival. Four bands played on Friday night, Saturday mid-day and Saturday evening. The carnival ran June 6, 7 and 8.
- We had an estimated attendance of 7,000 people over two days.

- We would like to thank our volunteers from Woodlawn United Methodist Church, Derby High School cheer squad, National Honor Society, City Council, City employees, Derby Panther Marching Band, community members and others. This contest would not be possible without the support of our many sponsors: Security 1st Title, Hog Wild Pit BBQ, Citizens Bank of Kansas/Verus Bank, Creekstone Farms, Chick-fil-A Derby Marketplace, Fidelity Bank, BRG Precision Products, K&S Liquor, Derby Noon Lions Club, Derby Community Foundation, Meritrust Credit Union, MJB Heating & Cooling, Derby Orthodontics, Phoenix Mortgage Group, Woodbridge Home Exteriors, Leafguard of Kansas, Credit Union of America, JP Weigand and Pizza Hut.
- The 2020 Derby BBQ & Music Fest is set for June 11, 12 & 13 at High Park. The date was moved one week later to avoid conflicts with other large events in the area, such as the Wichita River Festival.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- In 2019, we saw less revenue than prior years due to a decrease in sponsorship revenue. We did not have a presenting sponsor this year, which is the main reason why our revenue is down from past years. Expenses were consistent with past years.
 - Revenue
 - 2019: \$34,837
 - 2018: \$40,940
 - 2017: \$39,535
 - Expenses
 - 2019: \$55,810
 - 2018: \$55,454
 - 2017: \$53,160
 - Net cost to general fund (covered partially by fireworks tent permit fees)
 - 2019: \$20,809
 - 2018: \$14,515
 - 2017: \$13,625

- In addition, the new Music Fest budget came from fireworks revenue. We spent \$10,100, including 4,500 on four bands and \$5,600 on production, lighting, sound and stage.

Mary Reece, Director, Airman & Family Readiness Center, McConnell Air Force Base, said this is a program set up to support airmen and families. We help airmen find a job, navigate military retirement, and assist with financial budgeting, but the largest focus is to help them get ready for deployment and re-integrate upon their return. Your money helps create hero pillows and pillowcases. This is a way to keep a deployed military member connected with family. These are just a few things we do to show community support. We couldn't do it without the donation the City of Derby gives us. Thank you for your continued support.

Mayor White presented her with the donation.

Council Member Bannon said thank you all for your service either here or abroad.

Mayor White asked if anyone could think of a better thing to spend your money on. There isn't a better thing we could do.

Council Member Keil asked if the festival next year will include all of this year's new attractions.

Ms. Bansemer said yes; we plan to bring back the carnival and the bands.

8 NEW BUSINESS

a) Public Hearing & Ordinance to Expand STAR Bond District

Kathy Sexton, City Manager, presented the agenda report.

BACKGROUND:

- On July 23, the City Council set a public hearing to consider expansion of the STAR bond district for August 27.
- The purpose of the proposed expansion is to locate Derby Sport Zone (a multi-sport attraction including indoor and outdoor sand and hard courts with a games area and restaurant) on the east side of Rock Road between the Don Hattan car dealership and Freddy's on land currently adjacent to the STAR bond district.
 - The re-location from the previously approved site on the west side of Rock Road (between the water tower and car wash) is necessary due to an issue with the original lot that could not be resolved.
 - The owner/operator of Derby Sport Zone is Mr. Chas Tulipana, who also owns and operates KC Power Play with locations in Shawnee, KS and Kansas City, MO.
 - The City Council and Kansas Department of Commerce approved this attraction in October 2018.
- The proposed expansion would include not only the land for Sport Zone but also several lots both north and south of Sport Zone (see map of the

East Tract in the ordinance) because of the need to access this lot using public streets and other infrastructure not yet constructed.

- Retail growth in this larger area would accelerate the repayment of STAR bonds.
- These surrounding lots would likely be more attractive to retail development after the new attraction opens.
- The action recommended today is to hold the public hearing, ask questions of understanding and approve an ordinance to expand the district.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Expanding the district involves positive financial implications, specifically that (1) the already approved Sport Zone attraction can commence construction at this site, and (2) any future construction of retail establishments that collect sales tax in this expansion area will help pay off STAR bonds faster.
- City staff discussed the expansion proposal with all owners of undeveloped property in the proposed expansion area. They understand the expansion has no negative effects on their property, adds no new taxes and could provide positive benefits to their properties. Owners of developed properties in the expansion area were sent letters. No opposition has been received to date.
- The State of Kansas established STAR bonds as an economic development tool to partner with cities and private businesses to develop possible attractions that would increase tourism and visitors from outside the state and that would otherwise not get built if private businesses had to cover all costs involved.

LEGAL CONSIDERATIONS:

- KSA 12-17,165 provides the procedure to establish and expand/amend a STAR bond project district. After holding the public hearing and receiving confirmation that the Kansas Secretary of Commerce finds the proposed project district is an eligible area, the governing body shall pass an ordinance containing a STAR bond project district plan to generally identify all buildings and facilities proposed to be constructed in the project area.
 - State approval for this expansion has been requested and verbally received. Written approval is expected before the Council meeting.
 - If approved by the State and the City Council, this ordinance will be published and sent to the board of education and county officials, per state law.
- On Sept. 8, 2015, the Derby City Council approved Ordinance 2242 establishing a STAR bond project district that included a district plan including a theme park and entertainment center, retail and restaurant uses, hotel, general commercial and residential uses, and associated infrastructure.
 - The entertainment and tourism area would be (1) north of Patriot Avenue and west of Rock Road (theme park, family recreational tourism activities, hotel, sit-down restaurant and possibly a health care facility with medical office building, and (2) south of Patriot and west of Rock Road plus the Derby Marketplace (large and small scale retail).

- This district plan is a general description of buildings and facilities that are proposed to be constructed.

POLICY IMPLICATIONS:

- Future steps in the process will include receiving more information about another proposed attraction by Mr. Rodney Steven. Staff awaits receipt of a Project Plan in September for that project and, if received, will proceed to schedule a public hearing on it (tentatively Oct. 8).

RECOMMENDED MOTION

- Approve an ordinance expanding the STAR bond district and providing for a change in the district plan.

Mayor White opened the public hearing at 6:50 p.m.

Mayor White closed the public hearing at 6:50 p.m.

Council Member Bannon asked if the STAR bond money will be increased since the city is expanding the area.

Ms. Sexton said yes. That request will be coming to you in the next few months. It will be partially for the third attraction. The major part of the request will be for new infrastructure. We will need to put in water, sewer, streets and sidewalks to serve that area.

Council Member Bannon said she wanted to make sure we aren't expanding an area where we don't have the financing to support the infrastructure. If we don't get funding what will happen?

Ms. Sexton said the expansion will hold but if we don't get funding it may change the plans of the developer.

Council Member Keil said he is not opposed to expanding the district. He wanted to know if we had any other knowledge about future buildings being built in the STAR bond district.

Ms. Sexton said there are many things in process that aren't ready to be discussed tonight. There is currently a good sized medical office building under construction just north of Rock Regional Hospital. There is another medical office building that is being planned on the other side of the hospital.

Council Member Bannon said she firmly believes had the city not done the STAR bond project, we would not have Rock Regional Hospital today. This is a positive thing for the community.

Ms. Sexton said the STAR bond program was made for a purpose. The intent is to get more visitor traffic through new tourist attractions.

Tom Keil moved, seconded by Cheryl Bannon, to approve an ordinance expanding the STAR bond district and providing for a change in the district plan.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Cheryl Bannon
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Tom Keil, Vaughn Nun, and Mark Staats

9 EXECUTIVE SESSION

Tom Keil moved, seconded by Mark Staats, to recess to executive session for consultation with the City Attorney on matters deemed to be of attorney-client privilege concerning interpretation of Kansas law and potential litigation, and reconvene the open meeting here in the Council Room at 7:16 p.m.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Mark Staats
AYES:	Tom Keil, Mark Staats, Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, and Vaughn Nun

Council Member Keil stated no binding action was taken in Executive Session.

10 NEW BUSINESS

a) Resolution Authorizing the Sale of Bonds and Temporary Notes

Jean Epperson, Director of Finance, presented the agenda report.

BACKGROUND:

- The proposed action is to authorize marketing of bonds and notes, which is the final step before approval of the sale of general obligation bonds, general obligation refunding bonds and temporary notes.
- Bond Refunding:
 - The City of Derby's Debt Management Policy calls for periodic reviews of all outstanding debt. The City's financial advisors, Dustin Avey and Clayton Kelly with Piper Jaffray & Co., identified several series of bonds for which the issuance of refunding bonds could achieve substantial interest savings.
 - Refunding of the entire Taxable G.O. Bond Series 2009-A (Build America Bonds) would present the largest savings opportunity. This series of bonds financed the current public works facility, extension of the southeast sanitary sewer interceptor, and Buckner Street reconstruction. The bonds are taxable, but the City receives a rebate from the IRS of 35% of the interest expense. The present value savings of the refunding take into account the interest rebate.
 - Several other series of bonds have potential savings - G.O. Bond Series 2009-B, 2010-A and 2011-A.
- Decarsky Park Construction - Additional financing of \$2.3 million is required to complete the project.

- Special Assessment Bonds:
 - Permanent financing for sanitary sewer, waterline and street projects in The Oaks 4th Addition will be included.
 - At the July 23 City Council meeting, special assessments for these projects were levied.
- Temporary Notes:
 - Projects for which resolutions were previously adopted and are now needing temporary financing are as follows:
 - The Oaks Phase 6 (known as Summerchase) - Sanitary sewer, waterlines and streets
 - Rover Lane (adjacent to Decarsky Park)
 - Courtyards at the Oaks 2nd Addition:
 - Sanitary sewer and mass grading
 - Streets and waterline, Phase 1

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The competitive sale will be held September 19. The sale resolution contains the following parameters that allow for the Mayor to award the sale if the bids are within these parameters:
 - Series 2019-B Bonds - \$11,750,000 - Maximum interest rate 3.75%
 - Series 2019-1 Notes - \$2,250,000 - Maximum interest rate 3.50%
- The City Council will be asked to ratify the sale by adopting an ordinance and resolutions at the September 24 meeting, or reject proposals.
- Refunding Bonds:
 - Preliminary analysis of the refunding indicates potential savings, and more information will be presented during the Council meeting.
 - The maturities of the refunding bonds will remain the same.

LEGAL CONSIDERATIONS:

- Gilmore & Bell serves as the City's bond counsel and has verified this issue is in full compliance with state laws and local resolutions and ordinances.

POLICY IMPLICATIONS:

- Pursuant to Section 12 of the City's Debt Management Policy (Resolution 2-2012), the present value savings of a refunding shall exceed 3% of the refunding maturities; this refunding will fall within that parameter.
- City policy requirements regarding special assessments of cash or credit commitment have been met.
- Upon issuance of these bonds and notes, the statutory direct debt as a percentage of assessed valuation drops to 20.94%. This is lower than the 21.15% ratio earlier in the year. The decline is due to the projected increase in the City's assessed valuation. Once the December bond principal is paid, the ratio is expected to drop slightly below 20%.

RECOMMENDED MOTION

- Approve a resolution authorizing the sale of General Obligation Refunding and Improvement Bonds Series 2019-B and Temporary Note Series 2019-1 of the City of Derby.

Dustin Avey, Piper Jaffray and Co., said interest rates are at all-time lows again. From an interest rate perspective, we are being conservative in our estimates.

Council Member Bannon asked what the new maturity dates will be.

Mr. Avey said there are no changes. The term of bonds will be the same with the same maturity date.

Council Member Bannon said saving money is always a positive thing. It takes money to run the city, and paying interest doesn't help improve our town.

Tom Keil moved, seconded by Rocky Cornejo, to approve a resolution authorizing the sale of General Obligation Refunding and Improvement Bonds Series 2019-B and Temporary Note Series 2019-1 of the City of Derby.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Rocky Cornejo
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Tom Keil, Vaughn Nun, and Mark Staats

Council Member Nun asked when the Federal Reserve meets next.

Mr. Avey said they meet on the first Wednesday of September. Based on our internal economists prediction, we are thinking there might be another rate decrease at that point as well.

b) 2019 Pavement Markings

Dillan Curtis, Assistant Director of Public Works, presented the agenda report.

BACKGROUND:

- To ensure safe travel throughout our community, the City replaces faded and damaged pavement striping and regulatory markings as needed (see attached map).
- The 2019 pavement striping and marking replacement project includes:
 - Rock Rd. – generally from Patriot Ave. to Osage St.
 - Meadowlark & Buckner intersection
 - Buckner St. – from Crestway St. to James St.
 - Baltimore Ave. (K-15) – from Sunnydell St. to nearly Meadowlark Blvd.
 - Crosswalks at Meadowlark Blvd. and Buckner St., Woodbrook St., and Park Hill St., Crestway Ave.
- Traffic Control Services provided the sole bid of \$96,956.40.
- To take advantage of aggressive pricing from the contractor, additional work was negotiated to include Patriot Ave. from Triple Creek Dr. to just west of Woodlawn Blvd. This increased the project cost to \$129,245.90.
- Bid board reviewed and approved the negotiated bid on 8/16/2019.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- The 2019 pavement marking budget totals \$150,000. At \$129,245.90, the project is within budget.

RECOMMENDED MOTION

- Approve the negotiated low bid from Traffic Control Services for \$129,245.90.

Mayor White asked what is included when you say markings.

Mr. Curtis said it includes everything on the actual pavement including white lines, yellow lines and turn arrows.

Council Member Hezlep asked why the city only had one bidder.

Mr. Curtis said typically there are three companies who do this work in the Wichita area and he was unsure why the other two companies decided not to bid, but assured the Council that Public Works had reached out to all available companies.

Council Member Staats asked how the determination of using paint versus thermoplastic is decided.

Mr. Curtis said thermoplastic sticks better to asphalt, as opposed to concrete. Paint sticks better to concrete.

Tom Keil moved, seconded by Mark Staats, to approve the negotiated low bid from Traffic Control Services for \$129,245.90.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Mark Staats
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Tom Keil, Vaughn Nun, and Mark Staats

c) Skate Park Building Demolition

Robert Mendoza, Director of Public Works, presented the agenda report.

BACKGROUND:

- Parks staff along with the Parks and Urban Forestry Board have discussed ways to improve the Skate Park facility for its users and to resolve issues regarding its management and maintenance needs.
 - The Skate Park located at 424 E. Market opened in 2006. The only building on site (30' x 85') was constructed in 1964 for restrooms and concessions for the city pool. Currently, the building is vacant except for portions of the men's and women's restrooms.
 - The structure needs major repairs to keep it safe and functional. The biggest issue is the need for a new roof estimated at \$20,000. The roof has been damaged by weather, age and vandalism over the years.

- Continued vandalism plagues the property with at least a dozen reported incidents each year. Incidents include destroying bathroom fixtures, doors, lighting and plumbing, which impacts usability, adds maintenance and labor costs, and requires the police department to respond to these calls.
- Staff met with Derby Police who agree that the structure provides too much cover for illegal activities.
 - The building blocks the view of officers who patrol the area. Officers routinely walk the property but are not always available to do so.
 - Police calls include criminal damage, tobacco, lost property, theft, suspicious character, fighting, drug/alcohol, battery and others.
 - The Police Department strongly favors removal of the building to improve the safety of the site and to reduce illegal activity.
- After considering these issues, the Parks and Urban Forestry Board approved a recommendation for demolition at its June 2019 meeting.
 - If approved by the City Council, demolition could occur this fall as weather permits by our street staff.
 - Mobile restrooms would be installed until it is determined how best to redesign the space and funding can be secured for permanent restrooms.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Demolition is estimated to cost \$7,300 for debris disposal, which is available in the Parks maintenance budget.

RECOMMENDED MOTION

- Approve demolition of the Skate Park building.

Council Member Bannon asked if the skate park is still being utilized.

Mr. Mendoza said the park is still heavily used. We are seeing lots of children and adults all the way up to 20 to 30 years old using the space.

Council Member Bannon asked if we still had cameras in the area.

Mr. Mendoza said there is a camera. It's not a security camera, it's primarily used for parents to keep track of their children.

Tom Keil moved, seconded by Andrew Swindle, to approve demolition of the Skate Park building.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Andrew Swindle
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Tom Keil, Vaughn Nun, and Mark Staats

11 CONSENT AGENDA

- a) Close Streets for Derby High School Homecoming Parade

BACKGROUND:

- The Derby High School Student Council requests approval for its annual homecoming parade on Thursday, September 26, 2019 at 6:00 p.m.
- The parade will start at the corner of Market and Westview and go west on Market Street to Georgie, north to Madison, and then east to Westview before going south and finishing at Westview and Market. See attached route map, which is the same as last year's parade.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Derby Policy Department will assist with traffic control, and Public Works will provide barricades for the street closures.

RECOMMENDED MOTION

- Approve the request to hold the Homecoming parade on Thursday, September 26, 2019 at 6:00 p.m.

b) Assessment Ordinance for Nuisance Abatement

BACKGROUND:

- City ordinance requires debris be removed from properties and lawns be maintained at 10 inches or less to protect the public health and safety.
- The City has incurred costs in abating nuisances found to exist on 10 properties; 2 are owner occupied, 4 are rental homes and 4 are vacant. Each owner of record at the time charges were incurred was sent notification that the City Council will consider assessment of the charges by ordinance.
- Because affected lots are often in foreclosure or in process of being sold, timely assessment is important to an equitable recovery of City funds.

FINANCIAL/SUSTAINABILITY CONSIDERATIONS:

- Costs total \$1,260 which includes the City's mowing and trash removal costs plus administrative fees.

LEGAL CONSIDERATIONS:

- City ordinance authorizes staff to mow excessively tall vegetation and remove trash when owners fail to do so. Staff seeks to collect reimbursement through informal efforts to avoid the need for formal remedies. Charges not timely paid may be assessed against the properties on which the work was performed.

RECOMMENDED MOTION

- Adopt an ordinance levying a special assessment upon certain properties the costs incurred by the City of Derby in abating nuisances found to exist thereon.

c) City Code Revision Approval

BACKGROUND:

- In January 2019, the Council approved Ordinance No. 2371 which authorized staff to engage Municipal Code Corporation to prepare

comprehensive supplements updating the Derby Municipal Code. The codification process incorporated ordinances effective from March 1, 2018 through December 31, 2018.

- The next step is for the Council to adopt the new code as supplemented; adoption does not change the substance of ordinances already in force.
- The city code is available on the City's website and viewed by stakeholders of the city, so it is important to keep it current. The online code is updated upon publication of the supplement, and the online code is current with ordinances adopted through December 31, 2018. Ordinances adopted in 2019 are also available on the City's website.
- Derby updates its City Code periodically to incorporate newly adopted ordinances and provisions into its published code book. Revision of the Derby Municipal Code by adoption of this ordinance will bring the published code current through December 31, 2018.

LEGAL CONSIDERATIONS:

- The City's code should be kept current to provide easy access to ordinances of general application. Adoption of the new code repeals all ordinances of general application unless they are included in the code or expressly excepted from repeal.
- Charter ordinances, bond ordinances and other special purpose ordinances remain valid and are unaffected by adoption of the new code.
- Adoption of an updated City Code is authorized by and must comply with K.S.A. 12-3014 and 12-3015.

RECOMMENDED MOTION

- Adopt an ordinance providing for recodification and supplementation of the Derby Municipal Code to incorporate all ordinances of general application effective on or before December 31, 2018.

Tom Keil moved, seconded by Mark Staats, to approve the Consent Agenda, as presented.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Mark Staats
AYES:	Rocky Cornejo, Jack Hezlep, John McIntosh, Cheryl Bannon, Andrew Swindle, Tom Keil, Vaughn Nun, and Mark Staats

12 ADJOURNMENT

Tom Keil moved, seconded by Cheryl Bannon, to adjourn the meeting at 7:33 p.m.

RESULT:	Carried
MOVER:	Tom Keil
SECONDER:	Cheryl Bannon
AYES:	Cheryl Bannon, Tom Keil, Rocky Cornejo, Jack Hezlep, John McIntosh, Andrew Swindle, Vaughn Nun, and Mark Staats

City Clerk

Mayor