

**APPROVED  
REGULAR COUNCIL MEETING  
April 14, 2009  
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I  
WARD II  
WARD III  
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Meidinger, Jim Craig  
Vaughn Nun, Heath Horyna  
Chuck Warren, Cheryl Bannon  
Mark Staats

Flag salute was led by Council Member Cheryl Bannon.

The invocation was led by Pastor Traci Bennett, Damascus Road Church.

**CONSIDERATION OF  
MINUTES**

Minutes of the March 24, 2009, Regular Council Meeting.

MOTION: Bannon moved to approve minutes of March 24, 2009 Regular Council Meeting. Horyna seconded.

VOTE: Motion carried 7-0.

**SWEAR IN NEWLY  
ELECTED COUNCIL  
MEMBERS**

**Jean Epperson**, City Clerk, swore in council members Jim Craig, Chuck Warren, Vaughn Nun, and Thomas Haynes.

**PUBLIC FORUM**

**Ted Austin**, Director of Operations, updated the council on the new library. Construction is going well and the building is going up despite the wet weather. Today, the superintendent said they are right where they want to be as far as their schedule. As the process evolves there are always things we find that we have to deal with. We have a change order on consent agenda tonight. We have had four change orders so far, including the one tonight they will total 11 items. We got a good price on the building and that helped us with our budget. We have a contingency built in to provide for any changes that come up as we start building. There are always things you find when you start building that could be better done another way or something wasn't clear in the plan and we have to make an adjustment. The very first one we

did was change the drive thru lane from asphalt to concrete. One of the concerns was that if we had to go back and repair that later it would be very difficult to get asphalt equipment back in there to work on it. We had a \$3,000 change order to change it to 7-inch concrete and we should never have to deal with that. If we do, we can do concrete work in a tighter area. It's those types of things that happen. Early in the process, the library had a desire for a laptop cart which is a number of laptops in a cart that they can take out and make available for the patrons. We weren't sure if we would be able to afford it, but as we looked at furniture and equipping the library we think we can, so we added an electrical outlet for that. It's a higher power outlet because the cart takes more energy, and that was a \$400 item. The one you are looking at later tonight has to do with the duct work. The center of the library is all exposed duct that is part of the architecture. It was designed with a single wall duct throughout the center section of the lobby and the center section of the library. There was some concern by the mechanical contractor that there could be problems given the height of the building and the temperature difference between the high areas and down here where we are and the air flow, there would be a possible moisture condensation issue. We talked to the engineers about that and they advised that it's appropriately designed, it should work fine. If you have a very humid day there could be an occasion where there is some condensation or minor issues. That concerned us a little bit since it's over the center of our books so we asked them to give us a price for changing that to insulated double wall pipe. That does several things for us, it makes the operation quieter, it prevents the condensation problem and makes for a better system so that the cool air gets down to where it needs to cool instead of losing some of the energy up high where we don't need it. We know that there will be other things that come along as we continue the project but we don't expect any major items, we haven't had any major items so far. Those first change orders amounted to approximately \$13,000 and this particular change order tonight is about \$13,000. We had a 5% contingency in our building program of the contract cost, which is room for \$280,000 for things that might come up. We don't try to spend all of that, but it's there if things happen or good things that happen that make the building better. Right now we are doing really well on our budget and we still have room in our contingency. We are right in the middle of our furniture package program and we have that package all together and should go out to bid next month. We are refining the last bit of that now and expect to have a meeting in the next week or two about the final package of furniture that will go out. The consultants that the architects used feel like we may be at the high edge of that package so we are taking a careful look at all the items in that package to see if there are areas we can tighten up and to make sure we are asking for exactly what we need. We won't know until we get the bids in. We have also provided that in a manner where we can take the items we need to have to open the library and then we can look at those items that we would like to have to make the library functional for years to come. The roof should go on soon and if you look at it now you will see a blue vinyl coating, that's a waterproofing layer over the plywood section of the roof. Metal will go over that, like City Hall, and the outer edges get a different roof and that should start occurring over the next 2-4 weeks. The brick work will finish up and they have many of the walls inside framed up but have not really gotten into any of the detail work yet. They need to get the roof in so they can start hanging heating and air duct, sprinkler piping and those sorts of things inside. That should start happening in the next 2-3 weeks. The target completion date has been changed from September 12<sup>th</sup> to September 30<sup>th</sup> due to weather conditions and change orders. We will still have to install furniture and move books so we are still looking at the end of the year for our move from this library to that one.

**Dan Smith** advised the last few years they have leased the City's land at 63<sup>rd</sup> and Patriot for a fireworks stand.

**Bob Sweet** from Big Daddy Fireworks and also representing the student ministry of the First Christian Church of Derby. They have been in Derby for 3-4 years; he also owns the land just north of O'Reilly's on K-15. They have leased the land the last 2 years at 407 W. Patriot from the City. They were allowed to place rock on the property to make for better parking in the past and every time they left the area they felt like they left it in better condition than it was. This is an integral part of the fundraising for the First Christian Church, without that they would lose the ability to sponsor about 100 children to go to their youth camps. About 75% of their youth camp costs comes from the fireworks stands. These kids also learn a little bit of a life lesson, launching themselves into the market place. Every stand they have whether its church groups or singing groups they all enjoy it very much and by the end of the summer they can't wait to do it again. One of the additional benefits the fireworks stand provides is that it reduces the financial burden on parents. Nowadays in economic times that are tightening budgets, to allow these kids to work these stands it will give these kids the opportunity to go to summer camps where parents might otherwise not be able to come up with the finances. He appreciates the city council's support in their efforts to assist these students in attending summer camp, it is an integral part of this community for those kids to grow up and learn the lesson of working. Without this stand at that location a lot of these kids won't be able to go to summer camp. He thanked the council for the opportunity of being in that location for the last two years and he hopes they will be able to continue at that location. This community is growing so fast there are not a lot of places to put stands. By allowing them to continue the same lease program they have it will help these children an awful lot in our community.

**Jerry Lucas**, co-chairman of the Fourth of July parade. This year the VFW, along with the American Legion is putting on the parade. In past years the city council has assisted them in funding with \$500 contributed for the use of the parade committee. A lot of that expense goes towards buying the small American flags they pass out along the parade route. He is here again this year to request the same and thanked the council for support in past years. Each year the parade gets a little bit better. He invited anyone that wants to be in the parade to contact the VFW. The theme this year is "The land of the free because of the brave". The parade will be July 4<sup>th</sup> at 10:00 a.m. and will follow the same route they have had in the past. Ms. Sexton had asked for a request in writing and she will have that first thing in the morning.

**Council Member Bannon** advised the farmers market will open on May 2<sup>nd</sup>. We have a Derby Garden Club that has just recently organized and they will be having a sale of plants. If you are looking for spring plants they will be there.

**Council Member Craig** thanked everyone for the support they gave him in the recent election. Jerry Lucas and Dan Billman were exemplary opponents. He encouraged people that even though the vote was small, he, Jerry and Dan met a lot of people who had a lot of things to say and that helped us understand a lot about what is going on. He stated he didn't know about the Derby Garden Club but did advise there is a garden tour coming up during Derby Days. Also, he and Ms. Sexton attended a water conference a couple of weeks ago, including some seminars

that had to do with water rights and water disputes. We really need to take this seriously, in the next 20, 25, 50 years, water is going to be critical on everybody's agenda. There is no getting around it that water is going to be one of the main issues that we will be facing as a community. We learned quite a bit about how to handle some water situations that happen when you annex into areas that already have water service and how that is to be mediated and negotiated and sometimes that becomes a sticky wicket. When the lawyers get involved sometimes that makes it even stickier. We were exposed to some good words on how people resolved issues involving annexation and water customers that were getting their water from rural water districts.

**Council Member Haynes** stated he appreciated the professionalism and integrity his opponent Shawn Riley brought to the campaign. It's a testament to the level of involvement, integrity, and professionalism that people are stepping forward and wanting to get involved with the City of Derby. He also thanked his wife; this would not have been possible without her support at home. While he was out knocking on doors she was at home taking care of things. He also thanked those in Ward IV that came out and voted. He looks forward to serving the next four years.

**Mayor Avello** commented that we are coming into the rainy season and we are going to get complaints about the creek. He asked the public to please not use the creek as a trash bin. Don't throw grass clippings in the creek; don't throw rocks, concrete or anything like that in the creek. It only backs it up and causes us headaches. Help us out this year and before you do that, think about it. We have some problems down stream and we are working on those but for the most part we are doing okay. If you please adhere to that he thinks we are going to be fine this year. He asked about Buckner on the west side of K-15, do we have any future plans to fix that street?

**Ms. Sexton** asked Mr. Squires to address that.

**Dan Squires**, City Engineer, advised there is a project on the books currently to study drainage. He assumes the Mayor is referring to the corridor south of Madison to the police station. There is a study ongoing right now and a design for drainage improvements. As part of that study one of the evaluations we thought would be useful in looking at is to see if we could construct a pavement structure, an inverted concrete crown like we have on Lakeview to handle the water that is currently causing the problems over there in lieu of a storm sewer system for somewhere around the same amount of money and end up getting the street paved and solving the drainage problem in one project. It did not turn out that was a feasible option, the pavement structure would have been fairly costly and would have had capacity issues in handling the amount of drainage that comes through that corridor in an inverted crown. It really needs to be addressed with a storm sewer system. We do have drainage improvements being designed to address drainage in there. On any project like that where things were really not designed to start out with, if you don't fix the drainage first you are throwing your money away on the pavement. We do have an aggressive pavement rehabilitation and management program. It doesn't list specific streets but has all of the streets in Derby rated on a rating system of various improvements and we will certainly take a look at that as part of our pavement management system.

**Mayor Avello** asked about the strip mall on Madison south of St. Mary's. That parking lot is in very bad shape. He knows it's an out-of-state owner and asked if there was anything we could do to move these people to take care of situations like that, in any strip mall?

**Phil Alexander**, City Attorney, advised that we don't currently have any ordinances that establish standards for private parking lots other than in some zones they have to be hard surfaced, or all weather surfaced. We don't currently have any mechanism to require the landowner to make repairs in their parking lot.

**Mayor Avello** asked if Mr. Alexander were saying we could.

**Mr. Alexander** indicated he was not prepared to say whether we could or couldn't, he would have to look at that issue.

**Mayor Avello** asked if he could do that, he would like to discuss it with the council. He saw a lady fall and it's not a good thing, for people who are out of state in particular, making their money and don't take care of the property and endanger people in the community.

**Mr. Alexander** advised he would look into it.

**Ms. Sexton** suggested that at the next meeting or two it is time to bring the council priority list back to the council for review and that could be something the council could consider whether that is something they want the City to do. As you know, as a private property owner, that owner is liable if he has a piece of property that people are getting injured on. There are a lot of private property responsibilities there.

## **PROCLAMATIONS**

Mayor declared April 22, 2009 as Earth Day in the City of Derby.

**Pam Fielden** and members of the recycling club from Swaney Elementary accepted the Earth Day proclamation. Swaney Earth Week will be April 20<sup>th</sup>-April 24<sup>th</sup>. Monday they will accept blue jeans for quilts to be sent to soldiers. On Tuesday they will collect cardboard, on Wednesday they will collect plastics coded 1-7, Thursday they will collect old shoes and eyeglasses, and on Friday they will collect aluminum cans. If you have any of the mentioned materials, please donate them to Swaney. If you have any questions, call 788-8560.

Mayor declared April 23, 2009 as Arbor Day in the City of Derby.

**Robert Mendoza and Chris Gadd** accepted the proclamation for Arbor Day and invited everyone to attend the Arbor Day celebration on April 23<sup>rd</sup> at 6:00 p.m. at the enclosed shelter at High Park. We will provide an educational program on rain sensors. As you have heard tonight water is a big issue and we have had that comment many times so we are going to have a demonstration with a mock setup for you to see, some educational materials as well as copies of the ordinance for you to take home and understand how it applies to you. We will have a lot of things going on, basic information about the community including some of the clubs and organizations available. We will also have Sprig, our resident squirrel. There will be a garden

tour coming on May 30<sup>th</sup> with two council members participating, Mrs. Bannon and Mr. Staats. The Optimist Club will be at the Arbor Day celebration with the bounce house, popcorn and cotton candy. Bring the kids out, we will have a lot of good things going on, a lot of information and educational materials you can take with you. We will also give away trees again this year; we have 500 saplings this year compared to the 300 we gave away last year. Our event is growing and we appreciate everyone's participation.

**RESOLUTION  
AUTHORIZING THE  
SALE OF TEMPORARY  
NOTE SERIES 2009-1 &  
SERIES 2009-2**

**Jean Epperson**, Director of Finance/City Clerk presented the staff report.

**Background:**

- The City Council has previously taken action which authorized via resolution a number of internal improvement projects following petitions submitted by developers and property owners.
- The purpose of the Series 2009-1 temporary note sale is to provide \$2.755 million of interim financing during the construction of the authorized projects.
  - This amount represents only 85% of the total \$3.056 million listed in the resolution, which is in accordance with the City's past practice. Typically, bids come in lower than the full amount allowed by resolution, so we don't borrow more than we need.
- The permanent financing (general obligation bonds), along with the special assessment process, is expected to take place during the spring of 2011 toward a June 1, 2011 general obligation issue.
- The improvement projects to be financed are listed below:
  - Tall Tree Addition – Sewer Pump Station
  - Stone Creek Commercial 4<sup>th</sup> Addition & Stone Creek 2<sup>nd</sup> Addition, Phase 5A – Sanitary Sewer, Water Line, Storm Water Sewer and Streets
  - Derby Medical Campus – Sanitary Sewer, Water Line, Street, Storm Water Sewer and Sidewalk
  - The Oaks Addition, Phase 11 – Storm Water Sewer
  - Spring Ridge Addition – James Street extension
- Temporary Note Series 2009-2 will provide \$4.125 million of interim financing for the balance of the construction of the Derby Public Library. Initial financing of \$3.025 million was issued in 2008.
  - The maturity date of the Series 2009-2 notes is June 1, 2011 to ensure adequate timing of the defeasance of the Aquatic Park bonds and flexibility in the issuance of the Library project bonds.
  - The Series 2009-2 notes are considered “double barrel” because they are backed by both the ½ cent city-wide retail sales tax and the general taxing authority of the City.

**Financial/Sustainability Considerations:**

- Bids will be solicited for the notes and presented at the April 28<sup>th</sup> city council meeting.

- There are costs to the city-at-large for the streets and sanitary sewer in the Stone Creek Commercial and James Street projects in accordance with the city's development policy. Total cost to the city-at-large of all resolutions is \$349,770 which will be financed over 15 years.
- The Tall Tree pump station project was originally financed in Temporary Note Series 2007-2, which matures June 1, 2009. In order to consolidate projects into one bond issue, the pump station project is refinanced in this series of temporary notes and then will be permanently financed in the General Obligation Bond Series 2009-A, of which the initial steps of the special assessment process are included in this agenda. The Tall Tree pump station represents the \$180,000 portion of Temporary Note Series 2009-1, which has an earlier maturity of August 1, 2009 than the remainder of the notes, which are callable June 1, 2010.

**Legal Considerations:**

- The notes are being issued pursuant to and in full compliance with the Constitution and statutes of the State of Kansas. Local resolutions, ordinances and policies have been adhered to.
- The resolution provides for approval of the Preliminary Official Statement in substantially the form presented, which outlines the details of the offering to prospective buyers of the notes.

**Policy Considerations:**

- City of Derby policy requirements regarding special assessments of cash or credit commitment have been met.

RESOLUTION NO. 20-2009

RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2009-1, AND GENERAL OBLIGATION SALES TAX TEMPORARY NOTES, SERIES 2009-2, OF THE CITY OF DERBY, KANSAS.

DISCUSSION:

**Council Member Craig** asked how we stand on our debt ratio.

**Mrs. Epperson** explained that number is calculated in the preliminary official statement which was emailed to Mr. Craig. We are at approximately 23%, that's a bit of a jump from where we were at the end of 2008. The reason is because this temp note is already figured in there, the \$2.7 million. The other side is the notes will be dated May 15, so we have not paid any principal costs which would actually reduce that ratio, it would reduce the amount of outstanding debt. We are above the 20% threshold, but it will eventually work itself out. In August, the number will be higher because we have some city-at-large projects that we are financing. When December comes around we will pay at least \$4 million in principal and we will also have our new assessed valuation. We may have our new assessed valuation by August, but she can't promise that. She is just alerting the council to the fact that it will be a higher number.

MOTION: Warren moved to approve a resolution authorizing the sale of Temporary Notes Series 2009-1 and 2009-2 of the City of Derby. Nun seconded.  
VOTE: Motion carried 8-0.

**G.O. BOND SERIES 2009-  
A – SPECIAL  
ASSESSMENTS-FIRST  
ACTION**

**Jean Epperson**, Director of Finance/City Clerk presented the staff report.

**Background:**

- Projects financed in the Temporary Notes Series 2008-1 and a portion of the projects financed in Series 2009-1 that are complete are now ready for permanent financing to take advantage of the current interest rate environment.
  - The projects consist of infrastructure improvements in the Derby Downs addition (northeast corner of Rock Road and Meadowlark), Anderson Farm Commercial 2<sup>nd</sup> Addition (accel/decel lane at northwest corner of Rock Road and Patriot), Easton Family unplatted tract, Stone Creek Addition – Phase 5A, The Oaks Additions – Phases 11A, 11C and VII, and Tall Tree Addition pump station.
- The total project costs to be assessed in the 2009-A Bond issue are approximately \$2.7 million.
  - The debt service on the special assessment portion of this bond issue will be paid via 15-year special assessment payments of the benefited property owners.
  - The first step in the formal process of assigning specific special assessment costs to each parcel benefited by the projects listed above is for the Council to take action to approve the "Statement of Final Costs" and Assessment Roll. The Council would then set a date for the Public Hearing on the assessments and approve a Notice of Public Hearing.
  - The assessment roll is being generated at the time of preparation of the staff report and will be presented to council during this meeting.
- In order to meet various timeframes prescribed by state law, the Public Hearing is planned to be held during the May 12<sup>th</sup> regular meeting of the Council.
  - Notice of the Public Hearing will be published in The Derby Informer and mailed to each affected property owner (including proposed assessment amount) at least 10 days prior to the public hearing.
- In addition to the special assessment projects, this bond issue will include financing for three city-at-large projects, including \$4.5 million for a wastewater interceptor, \$4.0 million for the public works facility, and \$2.1 million for reconstruction of Buckner Street. The three city-at-large projects total \$10.6 million and will be financed over a 20-year repayment schedule.

**Financial/Sustainability Considerations:**

- The Statement of Final Costs contains a detailed listing of the construction and related financing costs of each project for permanent financing.
- All three city-at-large projects are contained in the city's approved Capital Improvements Plan (CIP).

**Legal Considerations:**

- The legal work for this process is being performed by the City's bond counsel, Joe L. Norton of Gilmore & Bell. Mr. Norton and his staff worked with City staff to determine the timeframes and are preparing all of the necessary legal paperwork, in strict adherence to state law, which, ultimately, governs the special assessment process.
- The job of calculating the final costs, notifying and mailing notices to property owners and spreading of specials is a combined effort of City Engineering staff and the City's Financial Advisor, Greg Vahrenberg of Piper Jaffrey Company and Charley Young of the Public Finance Group.

**Policy Considerations:**

- The various steps taken to complete the process of permanent financing of these projects are in compliance with existing city policy and state statutes.

DISCUSSION:

**Council Member Meidinger** asked if we were going to apply the \$1 million grant on this project.

**Mrs. Epperson** advised that was correct.

**Council Member Meidinger** clarified the rate structure on the sewer won't go down any, is that correct?

**Ms. Sexton** advised that was correct. It doesn't matter which project you apply the grant to, the balance of both projects total would both be paid for by the sewer rates. This way it saves us \$20,000 a year in interest costs. We didn't know we could do that until this afternoon when we got confirmation from the EPA.

**Council Member Meidinger** clarified the homeowners won't have any sewer rate benefit from that \$1 million grant then, correct?

**Ms. Sexton** explained we benefit from the sewer rates based on the actions at the last meeting of approving only the 28% increase rather than the 31% increase. The benefit for the \$1 million grant is already built in. She also pointed out we are still in the running for a second federal grant. That one would have a positive impact on what was approved last time.

**Council Member Meidinger** stated that the three city projects are financed over 20 years and the other projects are 15 years. Why are we going 20 years on ours and how much additional finance charges will we pay on that 20 years as opposed to 15 years?

**Mrs. Epperson** advised she did not have the exact numbers tonight. We are doing 20 years, especially for wastewater projects, that is the norm to fit the life of the project. Another theory

behind that schedule would be the users of that equipment would pay for it. If you go down to 15 years, then are the people from the 15-20 year, are they really paying for it, probably not.

**Council Member Meidinger** asked how much extra cost is that.

**Mrs. Epperson** advised she did not have that number with her tonight. We can get it.

**Council Member Bannon** advised that a lot of this tonight is commercial property but some of it is residential. At what point are the signs about specials going to go up in these areas? She doesn't remember whether we tied it to the issuance of the bond or once the housing starts in the area?

**Ms. Sexton** advised we didn't specifically tie it to a bond issue or anything. The warning signs are less about this kind of thing that you know you are putting in before the houses are being built. It's more about something that comes later like an accel/decel lane that you would have no way of knowing unless you saw the sign.

**Council Member Craig** asked about the range it will cost people for the three city-at-large projects. What's the impact to the resident owner?

**Ms. Sexton** asked if Mr. Craig was looking for an annual cost.

**Council Member Craig** advised he was.

**Ms. Sexton** advised they did not have those numbers with them. It is nothing that is being approved tonight, so if you would allow us to get that number for the next meeting we would have it.

**Council Member Craig** stated that we know people are going to incur some more cost as these are spread against the benefit district, isn't that right.

**Ms. Sexton** advised the confusion on her part is whether you are talking about the city-at-large projects. There is no benefit district; they are paid for by your city taxes. The council approved a budget last August that indicated the ability to pay for these projects under current taxing schemes.

**Council Member Craig** stated that when we looked at it a year ago things were quite a bit different. Do we still look good for the revenue that is going to be able to pay for this?

**Ms. Sexton** advised absolutely, we definitely have the money to pay for this.

**Mrs. Epperson** added that when we went through the budget process we had charted this out as part of the projected debt schedule.

MOTION: Warren moved to:  
- Approve the Statement of Final Costs as presented,

- Approve the Assessment Roll as presented,
- Establish the date of the Public Hearing to be 5/12/09, and
- Approve and authorize the publication and distribution of the Notice of Public Hearing. Bannon seconded.

**Mayor Avello** asked if there is any inflationary spike seen at all yet.

**Joe Norton**, Gilmore & Bell, advised he recently saw a chart indicating that last fall when the financial crisis first hit the stock market heavily, rates went up. Those rates have come back down and solidified, they are not at the levels they were last summer and spring but they are not that much higher than they were at that point in time. There for about a 60-90 day period at the end of last year there was very little activity in the bond market. People weren't borrowing money, projects were stalled and that has kind of opened up. We are seeing a lot more activity; people are going back to market. The stimulus package that was passed had some additional incentives that certain school districts can utilize and they are starting to gear up to get back in the market. Long term, obviously the more people that borrow, the more demand there is for people to buy bonds. Typically that means rates go up but in today's environment it's kind of different because people are looking to invest in safer investments than they have been. People are flocking to bonds like those from the City of Derby and general obligations of qualified school districts, people are flocking to those as opposed to other investments. Historically all the government spending would cause inflation, but we are in different times now.

VOTE: Motion carried 8-0.

**HOME GRANT BIDS  
AND PROGRAM  
UPDATE**

**Allison Moeding**, Director of Economic Development presented the staff report.

**Background:**

- In late 2006, the City of Derby received a \$225,000 grant award from the Kansas Housing Resources Corporation to start a HOME Rehabilitation Program. The HOME Program provides funding for improvements to houses in a specified target area whose owners and their households earn no more than 80% of the Sedgwick County median gross annual income. A second grant was received in late 2007 in the amount of \$200,000.
- After accepting applications starting in early 2007, SCKEDD reviewed applications to determine eligibility and establish a priority list. Currently, applications are being accepted for the 2007 grant, and homeowners may apply at any time.
- Each house is bid as a single project. A list of all improvements to be made to each home is provided by the project inspector/administrator to the contractors on SCKEDD's list of registered contractors.
- For the fourth round of HOME projects, a bid opening was held at Derby City Hall on Tuesday, April 7 at 1:00 p.m. The following bids were received:

Contractor	House #1 (1121 N. Kokomo)	House #2 (821 N. Georgie)	House #3 (850 N. Westview)
_____			

Stringer Remodeling	\$18,360	\$11,850	<b><u>\$17,575</u></b>
New Windows for America	\$18,940	\$12,245	\$24,430
Arambula Construction	<b><u>\$17,805</u></b>	<b><u>\$11,210</u></b>	\$21,638

- The lowest bid for each project/house, shown in bold type and underlined, is recommended for approval by the City’s Bid Board. All three contractors previously have completed HOME projects for Derby.
- This group includes the final home to be completed using 2006 HOME grant funds, as well as the first two homes to be rehabilitated with the 2007 HOME grant. As in the past, the projects will be bid and funds committed for a few houses at a time to ensure we remain within budget.

**Financial/Sustainability Considerations:**

- The HOME Grant funds will cover approximately two-thirds of total project expenses. A matching contribution by the City will pay for the remaining one-third of the project. Funds from two other state programs, KWAP (Kansas Weatherization Assistance Program and KAMP (Kansas Accessibility Modifications Program), will also be levied when possible.
- The City will pay the contractors directly after work is completed and approved by the SCKEDD project inspector and the City building inspector. The City will request reimbursement from the State of Kansas, thus drawing down funds from the grant award.

**Legal Considerations:**

- As the grant administrator, SCKEDD oversees the project to ensure that all HOME Program requirements are followed, including federal procurement (competitive bidding) practices. Contractors are also required to be certified by the Kansas Department of Health and Environment in safe lead practices.
- All contractors are or will be licensed by the City of Derby prior to beginning work. All contractors meet the requirements set forth by the State of Kansas for participation as a contractor for the HOME program.

**Policy Considerations:**

- Upon approval of the bids, SCKEDD will prepare the contracts for the city manager’s signature.
- SCKEDD personnel will coordinate the scheduling of work and record the progress on each property. Building codes staff will inspect all work to ensure it meets City code requirements.

MOTION: Bannon moved to approve the bid of Arambula for \$17,805 for improvements at 1121 N. Kokomo; the bid of Arambula Construction for \$11,210 for improvements at 821 N. Georgie; and the bid of Stringer Remodeling for \$17,575 for improvements at 850 N. Westview. Staats seconded.

VOTE: Motion carried 8-0.

## **ARRA FUNDING FOR MADISON AVENUE RESURFACING PROJECT**

**Dan Squires**, City Engineer presented the staff report.

### **Background:**

- In February 2009 the American Recovery and Reinvestment Act (ARRA) was enacted (commonly known as the federal stimulus bill). The ARRA is intended to stimulate the economy by providing funding for transportation and other construction projects.
- Federal transportation funds in the Wichita metropolitan area are administered by the Wichita Area Metropolitan Planning Organization (WAMPO).
- Resurfacing of Madison Avenue between K-15 Highway and Rock Road is currently in the City's pavement management plan for construction in 2011 and is estimated to cost \$525,000.
  - City staff submitted this project for consideration by WAMPO for ARRA funding.
  - The WAMPO Technical Advisory Committee (TAC) recommended to the WAMPO Transportation Policy Body that the City be awarded \$472,500 (90% of the estimated construction cost) for this project.
  - The WAMPO Transportation Policy Body will consider final selection of projects for ARRA funding at its April 14 meeting.
- ARRA funds are time specific; if not utilized in the designated time frame they will be lost to the area. The city has been requested to expedite the project by taking preliminary project development steps prior to final approval of funding.
  - In order for the City of Derby to utilize federal transportation funds, the project must be coordinated and bid by the Kansas Department of Transportation (KDOT).
  - The first step in the KDOT process is for the City's Governing Body to adopt a resolution supporting and committing City funds to the project.

### **Financial/Sustainability Considerations:**

- Resurfacing of Madison Avenue is currently in the City's pavement management plan for construction in 2011 and is estimated to cost \$525,000.
- If the City is successful in obtaining ARRA funds, 90% of the construction cost (up to \$472,500) would be paid with ARRA funds.
  - The city will be obligated to pay 10% of the cost of construction (\$52,500) and 100% of any construction costs in excess of \$525,000 in 2009.
  - The City will likely incur some costs associated with construction engineering (inspection), which is typical on KDOT-administered projects.
- The City's portion of the project costs will be incorporated into the revised 2009 pavement management plan. The source of funds will be from savings in other projects and revisions to the plan over several years.
- Resurfacing of Madison Avenue will extend the pavement life of the corridor and reduce maintenance costs to the City.

**Legal Considerations:**

- The City is authorized to apply for, receive and administer federal and state aid for local improvements pursuant to Article 12, Section 5 of the Kansas Constitution and K.S.A. 12-1662 *et seq.*

**Policy Considerations:**

- By utilizing ARRA funds, the City can accelerate this project, currently scheduled for 2011, and realize a substantial savings.
- Use of ARRA funds for the project is consistent with the act's goal of stimulating the economy by investing in infrastructure.

DISCUSSION:

**Council Member Craig** asked about the timetable on this project.

**Mr. Squires** advised it is quick, we are submitting this to get the ball rolling. We will still have to follow all of the federal guidelines which typically takes at least 3 months with KDOT. We will meet with them in the next couple of weeks to see how we can accelerate the project. A mill and overlay project from an environmental standpoint is not as intrusive as a reconstruction or widening project. He doesn't have a good answer other than all of these are supposed to be obligated before December. We want to beat that because obviously December is not a good time to do mill and overlay and if we can we'll get it in the summer while school is out considering the location of the project.

**Council Member Craig** clarified that this will be let out for bids as we normally do and that KDOT will be in charge of that.

**Mr. Squires** stated it will be a KDOT let project, it has to be because of the federal funding.

MOTION: Craig moved to approve a request to the Kansas Department of Transportation for federal funding to resurface Madison Avenue from K-15 Highway to Rock Road and pledge City funding for the required match. Horyna seconded.

**Council Member Bannon** thanked the staff. So far that's \$1.4 million that we are saving in local taxpayers dollars. Someone in this country is going to be getting some of this money, and there is no reason we shouldn't. Whatever you are doing, keep doing it.

VOTE: Motion carried 8-0.

**RESOLUTIONS FOR  
PUBLIC  
IMPROVEMENTS TO  
SERVE SACHI**

## **ADDITION**

**Dan Squires**, City Engineer presented the staff report.

### **Background:**

- Sachi Addition is located north of the Quik Trip convenience store located at K-15 Highway and Meadowlark Boulevard.
- The Final Plat of this addition was approved by the Council on March 10, 2009.
- Along with the Final Plat, the Council also approved the petitions submitted by the developer for sanitary sewer, drainage and sidewalks.
- The plat has now been recorded, and Gilmore & Bell, the City's bond counsel, has prepared the corresponding resolutions for Council consideration.

### **Financial/Sustainability Considerations:**

- The benefit district defined in the resolutions includes only those lots within Sachi Addition.
- The resolutions for infrastructure improvements (sanitary sewer, drainage and sidewalks) total \$106,000. All of this cost will be paid by the benefit district.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

### **Legal Considerations:**

- The resolutions have been prepared in accordance with Section 12 6a of the Kansas Statutes.

### **Policy Considerations:**

- The Council has made a practice of financing such proposed improvements through the use of special assessments.

RESOLUTION NO. 21-2009  
SANITARY SEWER IMPROVEMENTS/SACHI ADDITION.

RESOLUTION NO. 22-2009  
STORM WATER SEWER IMPROVEMENTS/SACHI ADDITION.

RESOLUTION NO. 23-2009  
SIDEWALK IMPROVEMENTS/SACHI ADDITION.

MOTION: Staats moved to approve resolutions for public improvements to serve Sachi Addition. Warren seconded.

VOTE: Motion carried 8-0.

**ELECTION OF COUNCIL  
PRESIDENT**

**Mayor Avello** opened the floor for nominations of council president.

**Background/Discussion:**

- Each April, an election for Council President is held during a Council meeting. The process is as follows:
  - The floor is opened for nominations. Nominations (with seconds) are received. The floor is closed, and nominees are then voted on publicly.
  - A majority vote of the Council members present and voting is required to elect a Council President.
  - The term of a Council President is one year or until a new Council President is elected.
- The Council President is a serving Council member elected by the members of the City Council to serve in the temporary absence of the Mayor.
  - The Council President shall preside at all Council meetings when the Mayor is absent. He/She will perform the ceremonial duties of the Mayor during the Mayor’s absence.
  - When occupying the place of the Mayor, the Council President shall have the same privileges as other Council members and shall exercise no veto.
  - The Council President is also tasked with leading the annual performance evaluation of the City Manager.
- During Council meetings, the Council President takes the lead role in assisting the Mayor with meeting management, including but not limited to making motions to approve minutes, approve the consent agenda, recess to executive session, and bring the Council back to order following an executive session.
- The Council President exercises leadership by assisting newer council members with parliamentary procedures and Council norms.

**Legal Considerations:**

- State law (K.S.A. 14-204) provides for the office of council president, but Derby has exempted itself from this statute by charter ordinance.
- K.S.A. 14-308 provides for the president to fill the office of mayor if the office becomes vacant by reason of death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise. Any change in the responsibilities of council president or with respect to succession to the office of mayor should be accomplished by charter ordinance.

MOTION: Warren moved to nominate Council Member Mark Staats for Council President. Horyna seconded.

MOTION: Bannon moved to elect Jim Craig to fill the role of council president. Meidinger seconded.

VOTE: First motion for Staats carried 5-3, Meidinger nay, Bannon nay, Craig nay.

**Council Member Staats** accepted the position of council president. No vote on second motion.

**CONSENT AGENDA**

## **Fireworks Display at DARE Celebration**

### **Background:**

- Each year the Police Department hosts an end-of-year event for students from Derby schools that participated in the Drug Abuse Resistance Education (DARE) Program.
- This year's event will again be held in High Park on May 9, 2009. The event will include a variety of activities and conclude with a fireworks display.
- Stellar Fireworks is the display operator again this year and has provided the necessary documentation as required by the Derby Fire Code, including a site map, license, and insurance certificate.
- Area residents will be notified prior to the fireworks display.

### **Financial Considerations/Sustainability Considerations:**

- Stellar Fireworks is providing the fireworks display this year at no cost to the City.

### **Legal Considerations:**

- Title 8.16 of the Derby Municipal Code requires approval by the City Council for a fireworks display to be held within the city limits of Derby.
- A certificate of liability insurance coverage, a copy of the state license for the pyrotechnic operator, and a map of the location have been provided.

### **Recommendation:**

- Approve a fireworks display to be held at the conclusion of the D.A.R.E. Celebration on May 9, 2009 at 9:30 p.m. in High Park.

## **Change Order for Ductwork in Library**

### **Background:**

- The Library was designed with exposed single-walled ductwork through the main portions of the library and the lobby.
- Recently, the mechanical contractor raised a concern that on occasion, and under certain conditions, these pipes might condensate moisture.
  - The mechanical engineer advises the current design should work, but acknowledges that during humid periods there could be some condensation.
  - It would be very difficult and expensive to come back at a later time to make changes, should the current configuration become problematic.
- To prevent that possibility the mechanical contractor proposes to replace the single-walled spiral duct with double-walled spiral duct with insulation between the layers.
  - This configuration would prevent condensation and provide for a quieter HVAC system.

### **Financial Considerations/Sustainability Considerations:**

- The cost for this change order is \$12,939.
- Funding would come from the contingency fund calculated into the project budget.

**Legal Considerations:**

- All legal requirements governing solicitation and acceptance of bids have been satisfied.

**Recommendation:**

- Approve a change order to the library contract with Rainbow Construction in the amount of \$12,939 to replace single-wall spiral duct with double-walled insulated spiral duct.

**Declaration of Surplus Items for Auction**

**Background:**

- The following equipment is scheduled for disposition as it has been replaced:
  - 1991 GMC ¾ Ton Truck, Crew Cab, Vehicle #227
  - 2003 Ford Crown Victoria, Vehicle #150
  - 2004 Ford Crown Victoria, Vehicle #153
  - Zebra P130 Card Printers (2)
  - Cell phones (28) and accessories
- Last fall, a test program was implemented of selling the City’s surplus vehicles through Purple Wave, a Derby-based internet auction company (formerly McBride).
- Due to the wide exposure of the internet, the City received auction proceeds ranging from \$250 to \$1,000 higher than the trade-in values offered by auto dealers when the replacement vehicles were bid.
- The expense of City personnel associated with auctioning surplus equipment is substantially less when equipment is sold through Purple Wave rather than holding an on-site auction. In the past, the City incurred the cost of moving the equipment to the auction site, securing equipment during the auction at the wastewater treatment facility, and assisting during the Saturday auction event. These expenses have been nearly eliminated through the City’s business relationship with Purple Wave.

**Financial/Sustainability Considerations:**

- Disposition of assets no longer needed will reduce storage costs and generate revenue for the city.
- Numerous cities throughout Kansas have begun using online auction sites due to the efficiency and favorable bids.

**Legal Considerations:**

- The city can dispose of assets designated as surplus by the governing body.

**Recommendation:**

- Declare the equipment identified for disposition as surplus.

**Cereal Malt Beverage License – Change of Location**

**Background:**

- Vendors of cereal malt beverages in the City are required to be licensed by the City.

- Dillon’s Stores, Division of Dillon Co., Inc., is licensed as a limited retailer of cereal malt beverage at its 317 N. Rock Road store.
- The licensee has applied for a change of the licensed location to its new store at 1624 N. Rock Road (in Derby Marketplace).
- The new store is scheduled to open in the near future.

**Financial/Sustainability Considerations:**

- The \$50 change of location fee has been paid by the applicant.

**Legal Considerations:**

- City ordinances establish qualifications for cereal malt beverage licensees and allow for a change of location upon submission of an application, payment of the prescribed fee, and approval by the governing body.
- A license may not be issued until the new location meets all requirements established by ordinance.

**Policy Considerations:**

- When a cereal malt beverage license applicant meets all qualifications established by ordinance, the City is obligated to issue the license.
- Since the necessary inspections of the premises of the business are not complete, licensure of the new location may be approved contingent upon the licensee meeting all of the requirements of state statute and city ordinances.
- No license will be issued for the new location until City staff determines that all applicable requirements have been met.

**Recommendation:**

- Authorize the change of location of the cereal malt beverage license issued to the Dillon Stores, Division of Dillon Co., Inc., for the year 2009 from 317 North Rock Road to 1624 North Rock Road, contingent upon the licensee and the facility complying with all applicable requirements of state statute and city ordinance.

**Rock River Rapids Coolbrella Purchase**

**Background:**

- The Public Works Department has been developing plans to diminish maintenance requirements at Rock River Rapids. Public Works and the DRC have agreed that replacing a grassy area on the east side of the facility will lessen the landscape maintenance burden and also enhance the usability of the facility.
- To make this area more user-friendly, Public Works will install four shade structures called “Coolbrellas.” These are 20’ diameter umbrellas that mirror the existing shade structures located at RRR.
- Quotes were received from three companies. We negotiated with each company to achieve the best price possible. The final quotes are as follows: Shade Systems \$20,120, Sun Ports \$12,482.60, and Sun Shade \$12,980.00.

- The Bid Board reviewed and approved the lowest and best quote provided by Sun Ports in the amount of \$12,482.60

**Financial Considerations/Sustainability Considerations:**

- The 2009 budget includes \$33,000 for this project, which is more than adequate for the recommended quote of \$12,486.60.

**Legal Considerations:**

- All legal requirements governing solicitation and acceptance of quotes have been satisfied.

**Recommendation:**

- Approve the quote of Sun Ports in the amount of \$12,482.60 and authorize the City Manager to execute the purchase agreement.

**Rock River Rapids Concrete Bid**

**Background:**

- The Public Works Department developed a plan to diminish maintenance requirements at Rock River Rapids. Public Works and the DRC have agreed that replacing a grassy area on the east side of the facility will lessen the landscape maintenance burden and also enhance the usability of the facility.
- A Request for Bids was sent out March 20 to 10 concrete contractors. The request included site preparation, installation of 8,125 sq. ft. of 4” thick concrete, and site clean-up. The bids were publicly opened on March 30, 2009.
- Three bids were received: Barkley Construction - \$28,300, M.Y. Construction Co. - \$27,666.25 and Cornejo & Sons Inc. - \$35,110.
- The Bid Board has reviewed and approved the lowest and best bid provided by M.Y. Construction Co.

**Financial Considerations/Sustainability Considerations:**

- The 2008 budget contained \$40,000 for this project, which exceeds the recommended bid of \$27,666.25. Since the project wasn’t completed in 2008, the project funding was carried forward into the 2009 Revised Budget.

**Legal Considerations:**

- All legal requirements governing solicitation and acceptance of bids have been satisfied.

**Recommendation:**

- Approve the bid of M.Y. Construction Co. in the amount of \$27,666.25 for installation of concrete at Rock River Rapids and authorize the city manager to execute the contract.

MOTION: Craig moved to approve Consent Agenda as presented. Nun seconded.

VOTE: Motion carried 8-0.

**EXECUTIVE SESSION**

MOTION: Horyna moved to recess to executive session at 7:50 p.m., following a five minute break, for consultation with our attorney on matters deemed to be attorney/client privilege for a period of 30 minutes. Staats seconded.

VOTE: Motion carried 8-0.

The council returned at 8:25 p.m. Council Member Horyna advised no binding action was taken.

**ADJOURNMENT**

MOTION: Craig moved to adjourn at 8:26 p.m. Meidinger seconded.

VOTE: Motion carried 8-0.

ATTEST:

\_\_\_\_\_  
Dion P. Avello, Mayor

\_\_\_\_\_  
Jean Epperson, City Clerk