

**APPROVED  
REGULAR COUNCIL MEETING  
August 26, 2008  
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I  
WARD II  
WARD III  
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig, Jim Meidinger  
Vaughn Nun  
Cheryl Bannon  
Mark Staats, George Arnold

Flag salute was led by Council President George Arnold.

The invocation was led by George Arnold.

**CONSIDERATION OF  
MINUTES**

Minutes of the August 12, 2008, Regular Council Meeting.

MOTION: Bannon moved to approve minutes of August 12, 2008 Regular Council Meeting. Arnold seconded.

VOTE: Motion carried 6-0.

**PUBLIC FORUM**

**Sid Sanders**, spoke about the Buckner reconstruction. He had handed out a flyer that had a false statement in the fact that he stated that he would be backing out across six lanes of traffic. He assumed that with the street being 61 feet wide it would accommodate six cars, allowing 10-feet per lane. He was contacted by eight council members informing him it was to be just five lanes. He questioned why there will be five lanes in the 1400 block of North Buckner and only three traffic lanes from K-15 to the end of the 1300 block, it doesn't make sense to him. The action taken to widen Buckner will lower the curb appeal of the homes in the 1400 block for resale and he will lose 25-30% of valuation on his property. Being retired on a fixed income and living 51 years at that location he feels he should receive some consideration from the City of Derby. He understands that the City has acquired a 10-foot easement for a total of 14.5 feet on the west side of Buckner and he feels the east side could share some of the property loss or burden of widening the street. Has there been any consideration of action taken as to what has been presented on the Buckner project?

**Kathy Sexton**, City Manager stated that the Buckner/Meadowlark intersection project is a current ongoing project. There is a lot of work being done on it and a lot of communication with

the adjoining property owners. It is also a legal matter and is in court and she thinks Mr. Sanders is aware of that and we are communicating with him as best we can. As you know he mentioned that he had sent a letter around to the folks in the neighborhood along Buckner with some information in it that had some accuracy issues so we called him today and walked through some of those issues with him. We also sent a letter today to all the property owners and the people who rent those homes on Buckner from K-15 to Meadowlark. We are trying to communicate with people the best we can to clear up some of the misinformation and some of their fears. The comment that was made tonight about five lanes at the intersection project happening now versus the three lanes to the south will be cleared up when the street project happens for the rest of Buckner from K-15 to the intersection at Meadowlark, which is currently being designed and is scheduled to be constructed in 2009. It will only be a matter of months when we'll have the current old section of Buckner going into this new intersection. It's a difficult problem as you well know to go into an established area of the city and fix major street problems but that is exactly what Buckner is. You all know that the pavement has deteriorated to the point where we have to go in and start all over with the asphalt and road bed and we are trying to do that for the people who live there as well as the thousands of cars everyday that use that as a commuter route.

**Council Member Bannon** advised that the Matt Engels concert that was rained out has been rescheduled to September 27<sup>th</sup> at 7:00 p.m. at High Park. We have had a lot of events out there this year and it has been a great time for everyone. She asked the Mayor, council and staff if it were possible to put something on the website regarding the Ward III vacancy to give opinions about the applicants.

**Ms. Sexton** asked if Mrs. Bannon wanted us to solicit feedback through the website or to advise the mayor.

**Mrs. Bannon** advised she has had a lot of people in Ward III ask her, because this is a little different situation than we have had before with this particular appointment and there are some clarity issues as far as what is going on. Everyone out there should know by this time that there are email addresses for everyone and with one button click you can get to everyone. But maybe if you put something on the front page that would be easy to access, the website is [www.derbyweb.com](http://www.derbyweb.com).

**Council Member Arnold** stated that some of you may not be aware of the fact that our city manager had written a beautiful editorial that was printed on Wednesday, August 20<sup>th</sup> in the Derby Informer. He quoted a portion of the article. He pointed out there are two empty seats on the council and we need some young people to step up and get involved in this community as far as the council is concerned. We have so far over the years developed a beautiful city in which to live with wonderful amenities and in order to continue to bring that forward as the city grows and develops into 35,000 to 40,000 people we are going to need some young people to be involved in the council so that we have their thinking and the benefit of how they feel in reference to their families, their children. We have some vacancies; by all means seriously consider applying for city council.

**Ms. Sexton** announced that we have long time El Paso Water Company employee and president of the company Pat Swaney retiring in the next few days. Tomorrow we will be having a public reception from 3:00 to 5:00 here in the city council meeting room. The public is welcome to attend. If you knew Pat and want to say thank you to him as he completes 45 years of service we would love for anybody to come out.

**Mayor Avello** stated that maybe some don't know that Mr. Warren has resigned from the council because he has also moved, from Ward II to Ward III. That is why we have two empty seats. He commented about a longtime resident who passed away last week, Frank Fanning who was on multiple boards in this city and did a lot of good things for this community. He will be missed and will be a hard man to replace and our hearts go out to the family. The city has lost another good man.

**Ms. Sexton** advised there is a person present to speak during the public forum but she was unaware she was supposed to sign in at the door. She asked for the council's indulgence in hearing one more public speaker today.

**Joan Heffington** is here tonight to appeal a decision made by the Derby Planning Commission on August 7<sup>th</sup> regarding approval of a plat on an acre of land she closed on in January of this year. It is in Sedgwick County just north of Lowe's in Derby. The land runs along the frontage road on the east side of K-15 and she purchased it from Jim and Donna Lattin in January of this year and is actually the west side of their property. Their home borders the east side, there are storage units to the north and Roberts Overdoors to the south. She bought this land for two reasons, to someday build a small office building for her business, The Association for Honest Attorneys and to construct a memorial beside it for her father who died in Vietnam while trying to save the life of his wingman. After traveling to Davis Mogden Air Force Base in Tucson in of April of this year she was told they are holding the last F-105 fighter plane, which is what her father flew. As was stated to the planning commission on August 7<sup>th</sup>, the proposed plat dividing her acre of land from theirs and calling it the Lattin Addition is not necessary since this property is in Sedgwick County. It is the county who has legal jurisdiction and not the City of Derby, which she confirmed with them months ago. They told her that even though this land is in Derby's area of influence the City of Derby would only have jurisdiction if there was a zoning issue, which there isn't, or if one side of the land touched the Derby city limits. As you can see by the diagram, it doesn't. She is here trying to avoid an unnecessary lawsuit. She is asking that the city override the planning commission's decision to plat these two acres, calling it the Lattin Addition because subdivision regulations do not apply. This is not a subdivision where homes are being built, it is zoned light commercial. Also, the Lattin's home is designated as an exception on this plat which makes no sense at all. She and the Lattin's were both led to believe the replat or a plat was necessary and there were no other options, when the option of a waiver was always available, this was mentioned to her by a former planning commission member several months ago. The replat with changes in easements, signing or sewer, water and annexation agreements are all unnecessary and therefore unreasonable since the city does not have jurisdiction. She was told by an attorney of 50 years just last week not to sign these agreements because she would be signing her rights away. She is asking for an appeal of the planning commission's decision approving a final plat of this land and a waiver of jurisdiction in order to avoid litigation.

**Mayor Avello** explained that during a public forum the council does not take any action.

**Ms. Heffington** advised that she called and was first told the meeting was on the 19<sup>th</sup>, then she called back and she was told the meeting was on the 26<sup>th</sup> and to just show up although she would not be put on the agenda. She was also told that the council would vote now.

**Ms. Sexton** clarified that Ms. Heffington was told to come and speak and she indicated to staff that she might want to appeal to city council. This is her time to do that and she has just done that and a request has been filed with the council. The council will not take action on this today because it is not on the agenda. If a planning commission recommendation comes to the council at a future meeting with their decision that is being referenced, at that time they would have the opportunity to either pass it, or has been requested to override it or deny that plat, but that is not on the agenda tonight. They don't have all of the facts on the item. She was told correct information; this is her time to speak, to make the request to the council. That has been done and we will take that request under advisement.

**Ms. Heffington** asked how she would know what the decision is.

**Ms. Sexton** asked Charlie Brown, Director of Community Development if the plat or some decision of the planning commission was scheduled to come to the city council at a future date.

**Mr. Brown** stated that at this point the ball is in Ms. Heffington's court. Before staff comes to the council with any action requested there are some documents that she needs to sign. If she does not sign those documents and she wants to do away with this plat it's very simple. She doesn't sign the document, therefore it will never come to the council and there will be no action needed, it will go away. If Ms. Heffington decides to proceed, if Sedgwick County requires that the land be platted in order for her to get a county building permit, then that platting process is in Derby's jurisdiction, even though it's in the county now we do have an area of influence and new plats will be designed to our standards. At this point the ball is in the applicant's court, if she doesn't want to proceed any further with this, just simply walk away and our case will be closed and it will never come to the council.

**Ms. Heffington** advised she was already told that at the last planning commission meeting, that the county was going to require that it be platted so that is why she came.

**Mr. Brown** explained that if the county is going to require her to have the land platted before she can get a building permit then the platting process is well along in Derby. There are some exemptions allowed in our subdivision regulations but he is not sure that this property qualifies for those exemptions; he thinks they have to be five or ten acres in size and the property has to be deeded or have that property description prior to a certain date. We will certainly look into that and see if there are other exemptions but he is not aware of any.

**Ms. Heffington** asked if the items that needed to be signed included the waiver of annexation.

**Ms. Sexton** stated that this council can do nothing for Ms. Heffington unless she signs the paperwork and brings that item that the planning commission approved to this council for their approval. If you don't want them to approve it just don't bring it to them for their approval. If you want the county to waive something you have to go to the county, this city council cannot help with that.

**Ms. Heffington** advised she was trying to get the council to waive the jurisdiction.

**Ms. Sexton** advised we can't do that and in the interest of time she suggested the council move on because we can't do that at tonight's meeting.

**Mayor Avello** stated he is taking applications for Ward II until September 13<sup>th</sup> to fill the open seat.

## **PROCLAMATION**

Mayor declared September as Senior Center Month in the City of Derby.

**Mayor Avello** presented a proclamation to Dee Williams, Senior Services Administrator proclaiming September as Senior Center Month.

**Dee Williams** introduced the Senior Center Board; Eleanor Underwood, Lucy French, Bob Newkold, Gerald Brownlee (Donna Brownlee), Jim Wells and William Mulford.

## **G.O. BOND SERIES 2008-B – SPECIAL ASSESSMENTS – FIRST ACTION**

**Jean Epperson**, Director of Finance/City Clerk presented the staff report. Mrs. Epperson mentioned that there were changes to the legal descriptions in the Notice of Public Hearing for projects 1 and 10 and copies were available for review. The changes are the result of timing differences in the filing of replats.

### **Background:**

- Temporary Notes Series 2007-1 issued June 1, 2007 will mature on December 1, 2008 so the issuance of general obligation bonds is planned to pay off the notes.
- In addition, projects financed in the Temporary Notes Series 2007-2 that are complete will be included in this bond issue to take advantage of the current interest rate environment.
- The projects consist of infrastructure improvements in the Derby Marketplace 2<sup>nd</sup> Addition, The Oaks Additions – Phase VIIA and XV, Mac's Corner 2<sup>nd</sup> Addition, Kwik Shop 2<sup>nd</sup> Addition, Derby Downs Addition, Stone Creek Addition – Phase 6, Tall Tree Addition – Phase 1 and Spring Ridge Addition – Phase 2.
- The total project costs to be assessed within the 2008-B Bond issue are approximately \$6.5 million.
- In addition to the special assessment projects, the balance of the Rock Road reconstruction project will be permanently financed in this issue. (\$1.0 million was permanently financed in the 2006-B G.O. Bond Issue.) The current balance is

\$2,051,225 but may drop or increase slightly once more complete costs are known in October.

- The debt service on 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, staff recommends that the Public Hearing be held during the September 23<sup>rd</sup> regular meeting of the Council.
- Notice of the Public Hearing will be published one time in *The Derby Informer* and mailed to each affected property owner (including proposed assessment amount) at least 10 days prior to the public hearing.

**Financial Considerations:**

- The Statement of Final Costs contains a detail listing of the construction and related financing costs of each of the 15 projects for assessment.

**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 the “spreading” of specials is a combined effort of City Engineering staff and the City’s Financial Advisor, Greg Vehrenberg 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.

MOTION: Bannon 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 September 23, 2008, and approve and authorize the publication and distribution of the Notice of Public Hearing, subject to revisions approved by the City Attorney. Arnold seconded.

VOTE: Motion carried 6-0.

## CONSENT OF OWNER

**Charlie Brown**, Director of Community Development presented the staff report.

### **Background:**

- Stone Creek Addition is a residential development on the north side of Patriot, between Buckner and Triple Creek Drive.
- The developer, Paul Kelsey, has now acquired additional property adjacent to Stone Creek Addition and Anderson Farm Commercial Addition which is being platted as Stone Creek 4<sup>th</sup> Addition.
- Stone Creek 4<sup>th</sup> Addition is approximately 42.5 acres and will consist of 104 single family residential lots.
- Development of the property will require extensions of City water, sewer and streets, which in turn requires the property to be annexed within the City limits. The developer has executed the Consent Annexation form.
- Annexation for this property also simplifies the process for approving sanitary sewer bids for property next door in Stone Creek Addition Phase 5A, since a portion of the area to be annexed is included in that sewer petition benefit district. (Revised resolution and bids to be considered at August 26<sup>th</sup> meeting).

### **Financial Considerations:**

- There is no immediate financial impact on the City from annexation of the property.
- Annexation and platting contemplates extension of municipal services into the new area. The extent of infrastructure extensions will be determined as the platting process continues. City staff anticipates no City-at-Large contributions for this area.
- Taxable valuation of the City will increase as the residential lots are developed.
- Annexation and platting will facilitate the marketing of the property for residential development.

### **Legal Considerations:**

- Because the property owner has requested annexation, the City may annex the subject property without notice and hearing.
- Because the subject property is adjacent to the existing City boundary, and because the owner is consenting to the annexation, only City Council approval is necessary.

### **Policy Considerations:**

- The Council has historically approved annexations requested by developers or landowners.
- The proposed development is in the City's growth area as identified by the Comprehensive Plan.
- Annexation will not adversely affect any existing uses upon the subject property.
- While this annexation will ultimately require significant extension of water and sewer services, those extensions will be addressed through the various petitions required with the Final Plat.
- Other City services such as fire and police protection, public works, and parks will also be affected by this annexation and its ultimate development.

ORDINANCE NO. 1952

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF DERBY, KANSAS.

DISCUSSION:

**Council Member Bannon** asked what the price of homes are they are looking at putting in here.

**Mr. Brown** advised he did not know exactly but thinks it is a continuation of the Stone Creek area which he is guessing is from \$150,000 to \$220,000.

**Council Member Bannon** stated it looks like we will be able to add on to water and sewer connecting right behind that.

**Mr. Brown** advised that was correct.

**Council Member Bannon** stated that a new “donut” was pointed out and she assumes that will be one of the areas we will be looking at cleaning up. Is that on the books at all for a schedule right now?

**Ms. Sexton** stated not right now but this is a glaring one and she doesn't think there are many glaring ones out there. We have some areas that are surrounded on three sides but she doesn't know that we have any other donuts. Later this year we plan to do some more streets and we need to work with the county some more in terms of some street right of way and that kind of thing. She and Mr. Brown will be sitting down later this year to look at what the areas are out there that need to be taken care of. When we get to it we will do some more annexation.

**Mayor Avello** asked if the same developer owned that piece of property.

**Mr. Brown** advised they did. The developer to the west, the gray area and the red area are both being developed by Paul Kelsey.

**Mayor Avello** asked who owned the white area.

**Mr. Brown** advised the white area is an existing area with two residences right on 63<sup>rd</sup> Street. Town and Country Estates is a platted suburban type residential area and there is a single family home and three or four unplatted tracts as well. Chances are we are not going to get consent annexation from those folks, it will be what we call a unilateral annexation and our city attorney will guide us through that process, the public hearings, notices and that sort of thing. We also have to determine if any or all of these properties are eligible for annexation because of size, use, etc. We do also have to prepare a service extension report showing how we would extend sewer, water and other city services into the area. It does take some time to do and he is sure the city manager will place it on the priority list at the appropriate location.

**Council Member Meidinger** stated that if we are going to create a donut and you suspect there might be some areas in there that would not conform to city annexation why would we entertain the motion to annex this other property if we are going to create a problem?

**Mr. Brown** explained that the red area is needed for the development within that red area. They actually have a plat that has been approved by the planning commission, both preliminary and final plats that are coming your way very shortly. That plat will require annexation because of the plat.

**Council Member Meidinger** clarified that the planning commission could create a problem for the City of Derby by creating this donut hole, is that correct? You are suggesting that some of those areas may not be eligible for annexation.

**Ms. Sexton** advised we might have misspoke a little bit there. When we are talking about consent annexation, the people who own the property ask to be annexed. They want to be part of the city, they want the benefit of water and sewer services and that's what consent annexation is, they come, they ask and we say yes we can give you services, welcome to Derby. The other type of annexation is when the city surrounds or abuts up to some land that doesn't ask to be annexed but it makes sense in terms of the economics of the city. That means that when people live very close to a city they are going to use city streets, the fire trucks are going to drive right by and it makes no sense for the sheriff to patrol. For an example, an area that has become inside the middle of the City of Derby so for efficiency sake, in terms of tax dollars being well spent and being clear about jurisdiction so 911 dispatchers know who to send to an area. Nobody enjoys paying additional taxes but if cities did not annex in an orderly fashion like that we would have much less efficient public services, we would have people not paying taxes to the providers that need to be providing them services. It's not a problem and it's not an impossible annexation, it's just a different process in state law.

MOTION: Arnold moved to approve an ordinance annexing certain lands being platted as Stone Creek 4<sup>th</sup> Addition. Staats seconded.

VOTE: Motion carried 6-0.

**REVISED RESOLUTION  
FOR SANITARY SEWER  
IMPROVEMENTS TO  
SERVE STONE CREEK  
ADDITION, PHASE 5A/  
STONE CREEK 2<sup>ND</sup>  
ADDITION AND  
UNPLATTED TRACT**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- Stone Creek Addition is located north of Patriot Avenue and east of the old Woodlawn Boulevard (now vacated).
- The Final (original) Stone Creek Plat was approved by the Council on February 24, 1999.
- Due to various replats and re-phasing of projects, the Council has approved various versions of resolutions to construct public improvements.
- Bids were received for this project on July 15<sup>th</sup>, but the bids resulted in the total project cost exceeding the maximum allowed by resolution.

- The City has now received an amended petition increasing the project cost and modifying the Benefit District to include an area now being platted as a portion of Stone Creek 4<sup>th</sup> Addition.
- The City's bond counsel, Gilmore and Bell, has now prepared the corresponding resolution for Council approval.

**Financial Considerations:**

- The revised resolution for sanitary sewer improvements has been presented in the amount of \$251,000. The benefit district will pay 100% of those costs. There is no required City-at-Large contribution.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

- This is a valid petition 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. 41-2008

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 28-2005 OF THE CITY OF DERBY, KANSAS WHICH DETERMINED THE ADVISABILITY OF THE MAKING OF A CERTAIN INTERNAL IMPROVEMENT IN THE CITY OF DERBY, KANSAS (SANITARY SEWER IMPROVEMENTS-PHASE 5A/STONE CREEK ADDITION & STONE CREEK 2<sup>ND</sup> ADDITION).

MOTION: Arnold moved to approve a revised resolution for Sanitary Sewer Improvements to serve Stone Creek Addition Phase 5A, Stone Creek 2<sup>nd</sup> Addition and unplatted tract. Craig seconded.

VOTE: Motion carried 6-0.

**CONTRACT FOR  
SANITARY SEWER &  
WATER LINE  
IMPROVEMENTS TO  
SERVE STONE CREEK  
ADDITION, PHASE 5A**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- A bid opening for the construction of Sanitary Sewer and Water Line improvements to serve Stone Creek Addition, Phase 5A was conducted on Tuesday, July 15, 2008 at 2:00 p.m. Bids were submitted by contractors after advertisement in the appropriate publications. The following bids were received by the City Engineer's office and witnessed by the City Clerk:

Dondlinger Construction	\$ 394,334.00
Middle Creek Corp.	375,313.00
McCullough Excavation	328,300.00
Utility Contractors	319,122.00

Mies Construction	300,000.00
Nowak Construction	285,520.75
<b>Engineer's Estimate*</b>	<b>\$ 291,055.00</b>

\*Engineer's estimate prepared by Baughman Company, P.A.

**Financial Considerations:**

- Funds for the construction work were included in the 2008-1 temporary note issue.
- The improvements will be paid 100% by the benefit district. Special assessments will be spread against the benefit district properties over 15 years.

**Legal Considerations:**

- The City followed all statutory procedures and local policies in planning and securing financing for the project, and in soliciting and analyzing bids.

**Policy Considerations:**

- Nowak Construction has satisfactorily completed several projects in Derby. Nowak Construction has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents.

MOTION: Staats moved to accept the bid of \$285,520.75 and authorize execution of a contract with Nowak Construction Co., Inc. for construction of sanitary sewer and water line improvements to serve Stone Creek Addition, Phase 5A. Bannon seconded.

VOTE: Motion carried 6-0.

**CONTRACT FOR  
MARKETING PLAN**

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

**Background:**

- In 2007, the City Council identified the creation of a community marketing plan as a priority. This priority was discussed during a series of strategic planning meetings with elected officials, staff and the public.
- Joint efforts to market Derby are off to a good start. A recent project between the City, Schools, DRC, Chamber and Community Foundation provided approximately \$20,000 in funding for several key tools, including a community brochure, portal website at www.derbyks.com, and a trade show display.
- To continue these successful marketing efforts, the development of a marketing plan spanning three years will enable the partners to identify audiences, messages and the tools to reach them. The goal of the marketing effort is to position Derby as the first choice for families moving into the area and to establish the school district as the first choice for new and existing families.
- A request for proposals (RFP) was sent out in May 2008. Four responses were received, and three firms were interviewed by a committee. Members of the interview committee were Allison Moeding, Kathy Sexton, George Arnold and Cheryl Bannon (City), Dr. Wayne Burke (USD 260), Rhonda Cott (Chamber) and Lisa Spillman (DRC).
- The interview committee unanimously voted to recommend CityImage Communications of Hastings, Minnesota. CityImage was the clear choice because of its experience assisting communities with marketing activities. Founder Tom Bullington and partner Bill Baker have worked with city governments, chambers of commerce, school districts and visitors bureaus across the country and overseas to develop unique marketing campaigns.

- Under the proposed contract, CityImage will conduct extensive research and analysis of the community and its assets, then develop a set of marketing tools along with recommendations for marketing activities. Deliverables will include a Summary of Assessment Findings; a Derby Brand Manual outlining the appropriate use of chosen marketing elements and messages; and a comprehensive three-year marketing plan that includes suggested quarterly marketing activities and estimated costs. Mr. Bullington will also conduct a “brand checkup” in 2010 to evaluate the success of the marketing plan.

**Financial Considerations:**

- Total cost for this project is \$30,000. One-half is due when the contract is signed, and the remainder is payable when the document is completed according to the terms of the contract.
- Pursuant to an agreement negotiated but not yet approved, the cost will be split between the City (45%), School District (45%) and Chamber (10%). The Chamber is scheduled to approve the partner agreement on August 21, and the Board of Education plans approval in September.
- The City’s share will come from the Economic Development Reserve budget. Funds have been budgeted to cover this amount.
- The cost does not include the future implementation of the recommendations. Funding for those activities will be discussed with the partners after the marketing plan is complete.

**Legal Considerations:**

- Underwriting the cost of a community marketing plan is a permissible use of City funds.
- The proposed agreement is appropriate for its intended purpose.

**Policy Considerations:**

- The City has previously entered into agreements with other governments for projects in which costs are shared between the parties.
- We anticipate approval of the community marketing agreement by our partners. However, if the agreements with USD 260 and the Derby Chamber of Commerce are not approved by their boards, this agreement will be modified and returned to the Council for consideration.
- While City policy does not require competitive bidding for this type of professional service, an RFP was issued and interviews were conducted by the interview committee before making a recommendation.

DISCUSSION:

**Council Member Craig** asked if they were going to bring a team to Derby to do this.

**Mrs. Moeding** advised that Mr. Bullington will be the sole employee that will be working on this project and he will make a number of trips to Derby to interview stakeholders, conduct some public meetings and meet with our committee.

**Council Member Craig** asked if he already has a plan.

**Ms. Moeding** advised he did. He and his partner have actually written a book about how this process works. We have a specified number of community meetings that will be carried out with this so he has a very specific plan about how this will be carried out.

**Council Member Craig** asked if we had a copy of it.

**Mrs. Moeding** advised we do. In the contract we have outlined the activities under assessments so he will examine current marketing practices and materials, reviewing the elements that are being used by the partners to understand our current practices. They will review any existing surveys, comprehensive plan documents, focus group results and anything that we already have as far as public feedback. He will be here on site to conduct additional research with stakeholders, external influences and we will have no fewer than 30 one-on-one stakeholder and external interviews. We will have three stakeholder workshops with participants that are being recommended by the partners. That is one of the things that our committee is going to do, as much of the legwork as we can to set up those interviews so we know he is talking to the right people.

**Council Member Craig** advised the purpose of his question was to ensure we passed on information to the public so they know what we are getting for the \$30,000.

**Council Member Bannon** stated she was glad to be part of this committee because going in to it the numbers are kind of a little surprising. After you hear the presentations and look at this gentleman's fees that were all inclusive versus the a la carte fees put out by a number of the other companies you find that fees are very in line. When you sit and listen to him versus the other presenters, far and away he has the most experience, actually one of the only ones with experience of helping to brand and market cities, schools and chambers all together. One thing he brought out and she would like everybody to start thinking about is how do we all describe Derby? We all need to be on the same page, when someone says where is Derby or what is Derby, do you automatically say, it's a suburb of Wichita. Do we want to be a suburb of Wichita or do we want to be Derby? We all need to be on the same page and we have a very symbiotic relationship between the city, the school and the chamber and she is very happy to see the cooperation agreements. She thanked Wayne for working with the school board to get the money. The city stands on its schools and the school stands somewhat on the city and the chamber plays into that as well. We all have to work together.

**Mrs. Moeding** mentioned that we are hoping to start work on September 15th. The process is going to take several months to work through all these steps so we are anticipating something hopefully after the first of the year.

**MOTION:** Craig moved to approve an agreement with Tom Bullington, d/b/a CityImage Communications, for development of a community marketing plan at a cost of \$30,000, contingent upon subsequent approval of a cooperative funding agreement among the City, U.S.D. 260 and the Derby Chamber of Commerce, and authorize the city manager to sign the agreement; and to approve a cooperative agreement with U.S.D. 260 and the Derby Chamber of Commerce in substantially the form presented and authorize the Mayor to sign. Bannon seconded.

**VOTE:** Motion carried 6-0.

**UPDATED CODE OF**

**COUNCIL MINUTES**

**-13-**

**08/26/08**

## **MEETING PROCEDURE AND GOVERNING BODY MANUAL**

**Kathy Sexton**, City Manager presented the staff report.

### **Background:**

- Agreeing upon and following a code of meeting procedure is an important component of running an efficient public meeting. Likewise, relying on a Governing Body Manual as an orientation resource for new governing body members and as a reference for incumbent elected leaders ensures consistency of protocol and practice.
- The City Council adopted a Code of Meeting Procedure and a Governing Body Manual in March 2007 and made updates in January and March 2008. City staff has prepared additional updates to both documents to reflect adjustments in Council policy and practice. The updates are attached and are summarized as follows:
  - In the Code of Meeting Procedure on page 3, Section 7 is updated with the new meeting time of 6:30 p.m.
  - In the Code of Meeting Procedure on pages 4-5 and also in the Governing Body Manual on pages 16-17, changes to the Public Forum are recommended to ensure the subject matter discussed is relevant to City government.
  - In the Governing Body Manual on page 14, changes in the officers of El Paso Water Company are noted.
  - In the Governing Body Manual on page 17, additions to the list of items eligible for the consent agenda are recommended to include minor amendments to developer petitions or resolutions that do not affect City finances or policy, Mayoral appointments to advisory boards, and nuisance abatement assessment ordinances.
  - In the Governing Body Manual on pages 29-30, serial meetings and the requirements of the Kansas Open Meetings Act are further explained.

### **Legal Considerations:**

- Formal establishment of meeting protocol, while not required, promotes predictability and civility in the conduct of governing body meetings. The governing body can update meeting protocol to meet its evolving needs and ensure efficiently conducted meetings.

### **Policy Considerations:**

- In adopting the updates of the Code of Meeting Procedure and Governing Body Manual, the governing body follows the adopted procedure for changing policy and practice.
- Any changes adopted at this meeting will take effect at the next meeting of the Council.

### DISCUSSION:

**Council Member Craig** advised that when we changed the time of the meeting everyone was fine with that but he wants to be sure tonight that we are still on the same page and everyone is still comfortable with the 6:30 p.m. start time. We have tried it for a few weeks now and we seem to be in attendance on time but if anyone has any druthers that they speak up now. We stood at 7:00 p.m. for years and have changed it recently, if it is working for everybody then fine, he is okay with it but maybe some others might have a comment about it.

**Ms. Sexton** indicated that no one has expressed any concern to her, either candidates, members of the public or anyone else.

MOTION: Arnold moved to adopt the Code of Meeting Procedure and Governing Body Manual as presented. Staats seconded.

VOTE: Motion carried 6-0.

**Mayor Avello** reminded everyone again that the application deadline for Ward II council seat is 5:00 p.m. on Friday, September 12<sup>th</sup>.

#### **ADJOURNMENT**

MOTION: Craig moved to adjourn at 7:32 p.m. Meidinger seconded.

VOTE: Motion carried 6-0.

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Dion P. Avello, Mayor

ATTEST:

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Jean Epperson, City Clerk