

**APPROVED MINUTES
DERBY CITY COUNCIL MEETING
August 9, 2011
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:
WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:
Jim Craig, Randy White
Heath Horyna
Cheryl Bannon, Chuck Warren
Mark Staats, Tom Haynes

WARD II

COUNCIL MEMBER ABSENT:
Vaughn Nun

Flag salute was led by Council Member Staats. The invocation was led by Pastor Joplin Emberson, CrossWay Church.

CONSIDERATION OF MINUTES: Regular meeting July 26, 2011.

MOTION: Warren moved to approve. Haynes seconded.
VOTE: Motion carried 7-0, Nun absent.

PUBLIC FORUM:

Derek Smith and Becky Robinson, Derby Community Coalition Promoting Healthy Choices were present to talk about Summerfest. Derek Smith stated that the premise of Summerfest is that kids who participate in healthy activities make better decisions than kids who don't. Local organizations are invited to set up booths to showcase what their organization offers. Last year, Summerfest had 80 booths. There will also be entertainment, an ice cream social, watermelon feed, Derby drum line, fireworks and an outdoor movie. The event is August 27th; it begins at 5:00 p.m. and will last until approximately 10:00 p.m. This year, Verus Bank is participating as a headline sponsor and the participation with the City is invaluable.

PRESENTATIONS:

Chuck Fields Retirement

Brad Smith, Derby Fire Chief, recognized Chuck Fields upon his retirement after 56 years of service to the Derby Volunteer Fire Department. In addition to being a volunteer firefighter he has served as a municipal judge, a fire inspector, and as secretary to the Department. Even though Chuck is retiring there is no one that knows how to drive the antique fire truck like Chuck does, we will still see him around as an honorary member of the department.

Mayor Avello presented Mr. Fields with a certificate of appreciation for his 56 years of service.

Chuck Fields advised he has served in many positions in the city including; serving on the volunteer fire department, civil defense director, municipal judge, city council member, fire

department officer, participated in fire week activities and assisted building the fire safety house. The year they built the fire safety house they received the state award as a “Friend of Education” and he is very proud of that award. He enjoyed his duties as fire inspector and daycare inspector and mentioned several events he had been a part of including the El Dorado tornado, the Udall tornado and several large fires. He decided it was time to retire when he thought he was getting more than he was giving but promised he is not through yet. He thanked his family and members of the fire department that were present this evening.

2011 Budget Award

Jean Epperson, Director of Finance/City Clerk, recognized Kathy Sexton, Mary Marshall and Eddie Sheppard for their work on the budget this year.

Mayor Avello accepted the Distinguished Budget Presentation Award for the 2011 Budget from the Government Finance Officers Association.

Kathy Sexton, City Manager, pointed out that the city council makes their job easier. While a budget is never easy to do we have a good way of communicating amongst each other and with the public all while understanding there is never enough money for everybody. We appreciate all of the support of the council.

Council Member Bannon pointed out that they all know that Mrs. Epperson is the one the award should be handed to. It never ceases to amaze her that you can ask her which bond something goes to and she always knows the answer. She asked how many years have we received this award.

Mrs. Epperson advised it is seven years.

RESOLUTION AUTHORIZING THE SALE OF GENERAL OBLIGATION BONDS AND SUPPORTING FINANCIAL DOCUMENTS

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

Background:

- The proposed action, which is the authorization to market bonds, is the final step before actual approval of the sale of general obligation bonds.
- This series of bonds includes three types: those paid by special assessments, those refinancing existing City debt to get better interest rates and thus save the City money, and those issuing new debt to finance reconstruction of Meadowlark Boulevard east of Dillons Marketplace to the city limit.
- **Special Assessments Bonds:**
 - General Obligation Bond Series 2011-A will provide permanent financing for special assessment internal improvement projects within the City, as follows:
 - Stone Creek 4th and 5th Additions
 - Kerfoot Addition
 - Prairie Acres 2nd Addition

- Derby Corporate Park water main
 - Derby Kingdom Hall Addition
 - The proposed resolution provides authorization for redemption of the portion of Temporary Note Series 2010-1 that financed the projects in the Stone Creek 4th and 5th Additions.
 - The “pay-in” period for advance payment of special assessments associated with this bond issue ended Tuesday August 2 at noon, and payments of \$24,047.99 were received.
 - Payments for infrastructure improvements for Stone Creek 4th and 5th Additions are being spread over 20 years to mature December 1, 2031. All of the other projects are not residential and therefore are being spread over 15 years to mature December 1, 2026.
- **Refunding Bonds:**
 - The City of Derby’s Debt Management Policy calls for periodic reviews of all outstanding debt. The City’s financial advisor, Greg Vahrenberg with Piper Jaffray & Co., identified six series of bonds that the issuance of refunding bonds could achieve substantial interest savings.
 - Due to the volatile nature of the municipal bond market, it is recommended that the refunding bonds be sold on a negotiated basis to gain flexibility in securing rates advantageous to the City.
 - The sale process would involve the following steps:
 - A Request for Proposals (RFP) has been distributed to underwriters by Piper Jaffray.
 - Responses to the RFP will be evaluated by a team of the City’s financial advisors, bond counsel, finance director and city manager. The underwriter selected will enter into a Bond Purchase Agreement executed by the Mayor as authorized in this resolution.
 - The final interest rates will be known when the bond ordinance and resolution are presented to the City Council at its August 23rd meeting.
- **City-at-large debt:**
 - The bonds will also provide permanent financing for reconstruction of Meadowlark from Rock Road to the east city limits.
 - In order to use bond proceeds, the following must be declared:
 - Meadowlark must be declared a main trafficway by ordinance.
 - The project must be authorized by resolution.
 - The current estimate for reconstruction of Meadowlark is approximately \$2.8 million, some of which is available in a previous bond issue because of savings experienced from receiving lower bids than estimated.
 - Due to the partial use of G.O. Bond Series 2009-A (Build America Bonds) for some of the Meadowlark project, only part of the project cost will be included in the G.O. Bond Series 2011-A.
 - The amount to be financed in this bond issue will be presented at the August 23rd meeting with the sizing of the issue as it may be in the City’s best interest to issue temporary notes in early 2012 to complete the project.
 - In order to use the proceeds of the Build America Bonds for reconstruction of Meadowlark, a resolution authorizing the reallocation of the bond proceeds is

required and is provided for in the second motion recommended in this agenda report.

Financial/Sustainability Considerations:

- Preliminary analysis of the refunding of the six bonds indicates potential interest savings of approximately \$500,000. The final savings may be more or less, depending on the interest rate environment.
- The refunding bonds are to be structured such that the final maturities of the bonds will not be extended.
- Currently, the G.O. Bond Series 2011-A is anticipated to be \$9.9 million, consisting of:
 - Special Assessment Bonds - \$1.9 million
 - Refunding Bonds – \$8.0 – Final amount to be determined.
 - City-at-large – Meadowlark Reconstruction – To be determined.

Legal Considerations:

- The bonds would be 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 job of calculating the final costs, notifying and mailing notices to property owners and spreading of specials is a combined effort of City staff and the City’s Financial Advisor, Greg Vahrenberg of Piper Jaffray Company and Charley Young of the Public Finance Group.
- 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 bonds.

Policy Considerations:

- The resolution contains parameters providing for the refunding in compliance with Section 12 of the City of Derby’s Debt Management Policy (Resolution 38-2009).
- As a general rule, the present value savings of a refunding shall exceed 3% of the refunding maturities, and this parameter is included in Sections 1 and 5 of the resolution.

ORDINANCE NO. 2082

AN ORDINANCE DESIGNATING MEADOWLARK BOULEVARD WITHIN THE CITY OF DERBY, KANSAS, AS A MAIN TRAFFICWAY.

RESOLUTION NO. 8-2011

A RESOLUTION AUTHORIZING THE IMPROVEMENT OR REIMPROVEMENT OF MEADOWLARK BOULEVARD, A MAIN TRAFFICWAY, WITHIN THE CITY OF DERBY, KANSAS; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.

RESOLUTION NO. 9-2011

A RESOLUTION PROVIDING FOR SUBSTITUTE IMPROVEMENTS TO BE FINANCED WITH PROCEEDS OF THE CITY OF DERBY, KANSAS, TAXABLE GENERAL OBLIGATION BONDS (BUILD AMERICA BONDS-DIRECT PAYMENT TO ISSUER), SERIES 2009-A.

RESOLUTION NO. 10-2011

RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2011-A, OF THE CITY OF DERBY, KANSAS.

DISCUSSION:

Council Member Bannon asked if the \$500,000 savings is before the cost of issuance or after.

Mrs. Epperson advised it is after.

Council Member Bannon asked what bonds we are looking at refinancing.

Mrs. Epperson advised they are 2000-1B, 2003-C, 2003-D and 2004-C.

Council Member Bannon clarified those are items that typically wouldn't pay off for some time yet.

Mrs. Epperson advised that is correct, they were issued back when the rates were high. In the last few years the rates have been low.

Council Member Bannon asked if this is as good a time as any to do this and what kind of rates might we be looking at.

Dustin Avey, Piper Jaffray, stated there has been a lot of rate volatility in the last 7-10 days. Last week we saw rates decline by 25-30 basis points depending on what maturity we were looking at. Rates have remained favorable this week given some of the volatility that we have experienced. From a rate standpoint we are projecting approximately \$500,000 of savings and from an overall rate standpoint, that equates to 2.5 to 2.7% in terms of net rate on refinancing.

Joe Norton, Gilmore & Bell, stated that six bond issues are identified in the resolution and there are several factors at play here. One is that the basis for achieving the better interest rates is if the City can keep its borrowing for this year at, or below, \$10 million, those are called bank qualified bonds. Banks have a better income tax treatment on those types of bonds than they do for issuers who issue more than that. In analyzing what component is refunding and what component is what you borrow for Meadowlark, we need to keep the size of the issue at \$10 million or less to achieve those interest rates which drive the savings. The resolution authorizes us to look at all or a portion of these series. Piper Jaffray staff analyzed each of these series on a maturity by maturity basis. It may be more advantageous to refund the 2014 maturity of one issue, the 2013 maturity of another issue and a different maturity of another issue as opposed to saying we will do all of one issue. One of the benefits of a negotiated sale is that while the marketing is taking place, which maturities of the refunding bonds match up to achieve the biggest bang for the buck. Since we don't really know until the day of the marketing which of the bonds are going to be refunded, or what the actual size is, it may be more advantageous to refund more bonds, borrow a little less on Meadowlark to get a bigger bang for the buck or vice versa depending on what the market conditions are. It's a complicated scenario happening in a short period of time.

Mr. Avey advised from a marketing standpoint, the earliest point we would be in the market would be next Tuesday to market the bonds and secure the final interest rates and savings on the

transaction. If you recall the transaction the City did last October, which was at that time the lowest level since 1961, we are very near those same levels again. From a timing perspective, whoever is making the decisions in the process you are going through, the timing could not be any better. As long as things remain favorable we should be able to market the bonds as early as next Tuesday.

Council Member Warren stated that what is going on in the national scene and the credit rating of the United States going down, how does that affect us as a city? Does that have a positive or negative or does it really matter?

Mr. Avey advised that the times we are going through right now are really unprecedented. The federal government has had a AAA rating for 70 years. The overall impact on local governments has probably yet to be determined. With the City's credit rating, ideally if the federal government gets downgraded again, it could have the same credit rating as the City of Derby. From the City's standpoint he doesn't see any direct impact, based upon the City's existing rating, financials and budget policies. The impact of what is happening at the federal level really impacts the overall global economy and national economy but he is not sure it has any direct relevance to what we are doing at the City of Derby unless more drastic things happen that impact borrowing costs.

Council Member Warren asked if we would ever consider keeping the payments the same and paying off the principal early.

Mrs. Epperson advised we could, but typically we look at getting lower interest rates and reducing our debt payment.

Mr. Norton stated that when the bonds you are looking at refunding now were issued, a decision was made as to what the appropriate length of maturity should be in order to spread the cost of whatever you were building. Since we are making major investments in infrastructure that will be beneficial to people in the next 20-30 years, does it make sense, as the city grows to allow those people to share in cost of some of the benefits that you are having the foresight to do now, as opposed to saying to this group that we pay that off and later on you don't have to worry about it. There are some philosophical decisions that have been made in the past, maybe you want to reconsider.

Council Member Warren advised he is not ready to make any changes now, but it's the kind of question that he thinks individuals make when they refinance a home, do they take the smaller payment or pay more to pay the debt off sooner. If we pay it off early do we really have savings?

Mr. Norton stated that the analysis that Piper Jaffray has done is a present value analysis. Whether you save money this year, or next year, or 10 years from now, it's present valued back to a number of what it would be worth today. The numbers are present value dollars as opposed to pure cash dollars. Typically, if you take your savings at the end, the number might be a bigger gross dollar savings. If you present value it back to today, it usually amounts to about the same present value number whether you take the savings over the next few years or all at the end.

Council Member Craig pointed out that if you do what Mr. Warren was talking about it really becomes more complex when you start bringing things forward and stretching things out. When you make that decision you might have the comfort of paying something off early, but it complicates the schedule of maturity and call for all of these as you build this master schedule. There are only so many variables you can handle when you start changing things around. He asked Mrs. Epperson who she was referring to when she said we were going to negotiate with someone.

Mrs. Epperson advised it is the George K. Baum Company and they are very reputable. When we went through this process we looked at their experience, their listing of municipal projects, which was several pages long. They gave us an estimate of what they thought the rates were going to be and a proposed underwriter percentage. They also had the lowest underwriter percentage or fee.

Ms. Sexton added that they were hired on a bidding basis that Greg and his staff analyzed the proposals. We had seven firms respond to the RFP and we authorized the hiring because with the timing it made sense to do that.

Mr. Avey explained that they sent out proposals asking for qualifications and received seven bids back. They made the determination based on qualifications. George K. Baum is very active in the State of Kansas which is a plus. Their fee was the lowest as well as their rates. Piper Jaffray's recommendation to staff and the council was to retain George K. Baum as the underwriter of this transaction. Piper Jaffray's role in the process is to be the financial advisor to the City but we also need underwriters to write the bonds and market and distribute the bonds to investors. They have gone through this process to hire an underwriter to do that process for them. The negotiated sale process in this instance works very well for the City in this instance because it gives us the flexibility to market the bonds on a timely basis given the market volatility.

Mr. Norton advised that George K. Baum is a regional investment banking firm much like Piper Jaffray; they are headquartered in Kansas City with offices in Denver, Wichita and other places around the country. They have been around longer than he has been in this business.

Council Member Bannon stated that in regard to Mr. Warren's statement, right now she wouldn't have a definite answer which way she would want to go, she would have never thought the refinancing would last this long. This might be a subject to talk about at the workshop coming up in the fall.

MOTION: Haynes moved to approve an ordinance designating Meadowlark Boulevard within the City of Derby as a main trafficway and a resolution authorizing the improvement of Meadowlark Boulevard and providing for the payment of the costs; approve a resolution providing for substitute improvement to be financed with proceeds of the City of Derby Taxable General Obligation Bond Series 2009-A; and approve a resolution authorizing the sale of General Obligation Bond Series 2011-A of the City of Derby. Bannon seconded.

VOTE: Motion carried 7-0, Nun absent.

RECONSTRUCTION OF MADISON AVENUE EAST OF DERBY HIGH SCHOOL

Dan Squires, City Engineer, presented the staff report.

Background:

- The City's Capital Improvement Plan includes the reconstruction of Madison Avenue from Derby High School to High Park in 2014 with design to begin in 2011.
 - The project is to include widening of the street and reconstruction to an urban standard including: stormwater sewers, curb & gutter, sidewalks, a bike path and landscaping.
- The City was successful in acquiring federal transportation funds allotted to the Wichita metro area region and administered by the Kansas Department of Transportation (KDOT) to pay for 80% of construction and construction engineering costs.
 - Use of federal funds for the project requires the project to be designed in accordance with KDOT standards and go through the KDOT plan review process, which takes significant time.
- Before programming and design begins, KDOT requires the City to adopt a resolution of support and commit the City's portion of the funding for the project.
- City Staff issued a request for Statements of Qualifications (SOQ) for qualified engineering companies interested in assisting the City with design of the project. Seven engineering companies submitted an SOQ for design of the project.
 - SOQs were evaluated and rated based on the company's overall experience, experience with similar projects, fee range, and familiarity with the project site and potential design challenges.
 - Schwab-Eaton is recommended to design the project for a proposed fee of \$114,508.

Financial/Sustainability Considerations:

- The CIP includes \$210,000 in the Capital Improvements Reserve Fund for design.
- Staff has reviewed Schwab-Eaton's proposed scope and fee (\$114,508) and believes it is appropriate for the project.

Legal Considerations:

- Solicitation and selection of a qualified engineering company to assist the City with design complied with applicable City policies and procedures.

RESOLUTION NO. 11-2011
RESOLUTION SUPPORTING AND COMMITTING CITY FUNDS TO THE
RECONSTRUCTION OF MADISON AVENUE EAST OF DERBY HIGH SCHOOL.

DISCUSSION:

Council Member Haynes asked if the streets will be widened to three lanes or four lanes.

Mr. Squires advised that is to be determined. We will be evaluating based on what we anticipate as future needs, what makes sense to widen to five lanes and what might be more reasonable at three lanes.

Council Member Haynes suggested we do it as wide as we can get it. This is an area that is growing and he only wants to do it once.

Mr. Squires advised that a big piece of this is bringing it from a rural standard to an urban standard with enclosed ditches, storm sewer, curb and gutter.

Council Member Bannon stated that since we didn't originally plan on the grant money, and we have the island annexation out there, would this be the right time to make that extra jump to include Quail Run since we have extra grant money to cover a lot of the rest of the project.

Mr. Squires advised a lot of the property on the south side of 79th is not in the city at this time but both High Park and Quail Run are.

Council Member Bannon stated that we have that island out there that we have annexed; it's a subdivision that hopefully we are looking for some growth. Our current subdivisions are filling up she thinks that would help get it off the ground a little bit. Since we have the grant money to kick start that is this the time to design and plan?

Ms. Sexton stated that it's probably not going to work on this project because the State has agreed to the scope of work, so if we start expanding it now it will probably just cost us more money. Even though that's a nice new development out there, it will take a good 10-15 years to develop out. As two lanes Madison has served several new developments so we probably could wait for perhaps 15 years.

Council Member Craig asked if we have some idea of what we think we want this to look like.

Ms. Sexton suggested that Mr. Squires review the Meadowlark project; it's a very similar situation.

Mr. Squires advised they have done a similar plan on Meadowlark although they don't have federal funding for that project. They developed a transportation study that indicated it makes sense to construct five lanes to St. Mary's Church where we know there is a heavy traffic demand and then taper down to three lanes and match at the city limits down to two. He anticipates going through a similar process on this project where we look at the land uses and specific attractions, maybe it's five lanes all the way out to High Park. The number of lanes will be determined in the early stages of the design of the project.

Council Member Craig asked if that will entail getting some easements from property owners.

Mr. Squires advised that more than likely we will need to acquire land in some locations, especially the properties that haven't been platted. On a section line road we acquire right-of-

way for what we think we will eventually need. For unplatted tracts, if they haven't platted, it would be reasonable to assume we would be acquiring right-of-way.

MOTION: White moved to authorize execution of an agreement with Schwab-Eaton, P.A. for design of improvements to reconstruct Madison Avenue from Derby High School to High Park at a cost not to exceed \$114,508 and adopt a resolution supporting and committing City funds to the project. Haynes seconded.

Council Member Horyna asked about the bridge.

Mr. Squires advised this project will stop just short of the bridge.

Council Member Horyna asked about the bridge just outside of Timber Leaf.

Mr. Squires advised that is a box culvert, it is not large enough to be considered a bridge structure under national standards.

Council Member Horyna asked about the construction engineering price under "other," is that the estimated price we were looking at initially, the \$220,000.

Mr. Squires explained that is a cost for inspection. There are certain hoops we have to jump through as part of the KDOT design review process and we are required to follow for their criteria for the federal money. Typically we have partnered with the County in the past and have reimbursed them for their costs to a federally funded project.

Ms. Sexton further explained those are inspection services while the contractors are on the site constructing the project.

Mr. Squires advised that preliminary engineering is what most of us think about as the design process and construction engineering is inspection and engineering review during construction.

Council Member Warren commented on acquiring easements and right-of-ways, if we were to determine that three lanes would service us for 10 to 20 years and that is the way we are going to go, would we go ahead and acquire right-of-way for five lanes? It would seem it would be cheaper to get the easements now even if we weren't going to build to that rather than build it and then get it at a future date.

Mr. Squires advised that typically on a project that has federal funds we acquire the right-of-way needed to build the project. The reason for that is that if we exercise eminent domain, we cannot under the federal guidelines acquire more than we need for the project as it is defined. If we end up going through eminent domain on any land acquisition we are limited to acquiring only what the project that we have identified justifies for acquisition.

Council Member Warren stated that if it's a close call between three lanes and four lanes it would be better to get the extra lane.

Mr. Squires advised if that's the case we should go with the extra lane anyway because we are dealing with projections and anticipated future growth and rather than actual numbers.

Mayor Avello asked if the grant money comes all at once or does it come down like a draw.

Mr. Squires advised on the KDOT administered projects we pay the State our portion up front and then the contractor submits pay applications through our construction engineers that are sent to the State. We pay our portion up front, we don't finance the federal funding portion, we pay it up front and it's drawn on by the contractor as the complete construction. We never incur the expense of the federally funding portion of the project.

Mayor Avello clarified that in the economic climate that we are in today, if we start the project and everything collapses, we get nothing.

Mr. Squires advised that if we begin construction, funding is obligated by the State. They won't obligate it if the funding pool is not there. It's guaranteed at the time we obligate. Any time up to construction there is always a small chance that something could fall through with the funding.

VOTE: Motion carried 7-0, Nun absent.

2012 BUDGET & 2012-2016 CAPITAL IMPROVEMENT PLAN

Kathy Sexton, City Manager, presented the staff report.

Background:

- A Public Hearing will be held during the council meeting to hear comments of residents related to the proposed 2012 Operating Budget and Amended 2011 Budget for the Water Bond 2004-A Fund.
- The proposed 2012 Operating Budget provides for maximum budgeted expenditures of \$39,538,117.
 - This amount includes the General Fund cash reserve and transfers between all budgeted funds.
 - It does not reflect expenditures from reserve funds (CIP Reserve, Wastewater CIP, Capital Projects Fund and Law Enforcement Trust Fund) totaling \$818,000, which are exempt from budget requirements.
- After cash reserves and bond proceeds are excluded, **expenditures planned for 2012 total \$33,480,534, which is a decrease of \$1,757,416 (4.99%) from revised 2011 expenditures of \$35,237,949.**
 - The budget differs from the statutory budget maximum because it includes the El Paso Water Company yet is reduced by the amount of transfers between funds and cash reserves.
 - The amount of ad valorem tax projected to be levied for 2011 is \$8,440,750 based upon a mill levy rate of 47.5.
- Several corrections and updates to the Manager's Recommended Budget presented on July 12th are recommended:

2011 Revised

- Wastewater CIP – The Southeast Interceptor was previously shown as a \$5 million project in the 2011 CIP; however, the estimated budget for the project has been reduced to \$4.115 million based on recently received bids and is now split between the 2011 Revised and 2012 budgets. The \$885,000 no longer needed for the Southeast Interceptor will be used for street reconstruction projects at South Buckner and Meadowlark.

General Fund:

- Drainage CIP – \$10,000 was added for maintenance of the High Park pond due to the low water levels.
- Facilities CIP - Increased 2011 Revised budget by \$6,000 for design of the Police Shooting Range Berm project. Construction remains in 2012.
- Bike Path CIP - The Phase 6 Bike Path project bids were lower than expected. Reduced 2011 Revised budget by \$126,000.

2012 Budget

- General Fund:

- Facilities CIP - Fire station kitchens require installation of new vent hoods. Increased 2012 budget by \$5,000.
- Street Division Operating Budget - \$16,000 was added to the pavement striping budget. This corrects an error and returns the program to the 2010 level.
- Officials Operating Budget – Council stipends of \$3,600 that are redirected to other organizations in 2011 were inadvertently left out of 2012 but are now included.

- Parks CIP:

- Savings of \$120,000 from the Phase 6 Bike Path in the General Fund are recommended to be transferred to the CIP Reserve Fund for park design and development pending approval of a master plan for the new park on Madison Avenue.

- Equipment Reserve Fund:

- The bids for Radio Replacements were lower than budgeted. Reduced budget by \$20,000.

Future Years

- Facilities CIP - We learned that the State of Kansas will not accept applications for the Transportation Enhancement Grant until at least 2014. As a result, the South K-15 Gateway project is recommended for 2015. The project was originally planned for 2013 with a cost to be determined.
- Parks CIP – The 4-plex ball fields project is recommended for 2014. It was originally recommended for 2013, but funding is not expected to be available that soon.

Legal Considerations:

- State statutes govern the timetable for budget preparation, publication, public hearing, adoption and certification.
- The Notice of Public Hearing and Budget Summary for the 2012 Operating Budget and Amended 2011 Budget have been published in *The Derby Informer* in accordance with state statutes.

Policy Considerations:

- Policy priorities to be implemented in this budget and CIP include the following:
 - Maintain infrastructure, especially streets, storm water management, and parks.
 - Position the staffing level so the City organization can meet the public safety and other needs of our growing population.
 - Balance the needs of new development with maintenance and enhancement of existing neighborhoods.
 - Maximize the use of grants and funding providing by federal and state sources when possible and practicable.
 - Provide the quality of services that Derby citizens enjoy and expect.
 - Partner with the school district and other community partners to get the most service possible out of limited public dollars.

Mayor Avello opened the public hearing at 7:30 p.m. With no one present to speak the public hearing was closed.

MOTION: Haynes moved to approve the Amended 2011 Budget for the Water Bond 2004-A Fund, the 2012 Operating Budget as proposed to fund City of Derby services from January 1 to December 31, 2012, and the 2012 – 2016 Capital Improvement Plan. Horyna seconded.

VOTE: Motion carried 7-0, Nun absent.

DERBY RECREATION COMMISSION BOARD APPOINTMENT

Dion Avello, Mayor, presented the board nomination.

Background:

- Earlier this year, the City advertised to the community the opportunity to volunteer to serve on various City advisory boards and commissions. Applications were due April 13.
- Many good applications were received. Due to the strong interest, not all applications could be accommodated. Most of the Mayor’s appointments were made on April 26 and effective in May.
- The term for DRC Board members expires in September instead of May like other boards and commissions. The Mayor’s recommended appointment to another four-year term is as follows:

Derby Recreation Commission Board	Chris Sexton (re-appoint effective September 2011)
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- Mr. Sexton has served on the DRC Board since 2003 (two terms) and applied for another term (see attached application). For the record, Mr. Sexton is no relation to city manager Kathy Sexton.

Legal Considerations:

- All appointments are made by the Mayor with the consent of the Council pursuant to the following ordinances and statutes:
 - Derby Recreation Commission Board – K.S.A. 12-1926(a)

MOTION: Haynes moved to approve the Mayor's appointment to the Derby Recreation Commission Board. Warren seconded.

VOTE: Motion carried 7-0, Nun absent.

CONSENT AGENDA

Kathy Sexton, City Manager, presented the consent agenda.

Assessment Ordinance for Nuisance Abatement

Background:

- The City of Derby has incurred costs in abating nuisances found to exist upon certain properties located within the City.
 - The costs are the charges the City incurred in contracting with vendors for mowing and trash removal service, plus a \$50 administrative fee.
 - Each owner of record, at the time the charges were incurred, was sent notification that Council will consider assessment by ordinance of the charges.
- This ordinance includes 28 properties, of which 8 are occupied, 13 are vacant residences, 5 are presumed in foreclosure, and 2 are vacant lots without structures.

Financial/Sustainability Considerations:

- The costs incurred in connection with the parcels to be assessed total \$3,941.25.

Legal Considerations:

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

Policy Considerations:

- City ordinance has established the policy that requires bulky waste, construction debris and tree waste be removed from properties to protect the health and safety of citizens.
- Ordinances are brought before the City Council for action as soon as possible so that recovery of the city's costs can occur from the owner of record at the time of assessment. Because affected lots are often in foreclosure or in process of being sold, timely assessment is important to an equitable recovery of city funds.

Recommend a Motion to:

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

ORDINANCE NO. 2083

AN ORDINANCE LEVYING AS SPECIAL ASSESSMENTS UPON CERTAIN REAL PROPERTY, HEREINAFTER DESCRIBED, DIRECT AND INDIRECT COSTS INCURRED BY THE CITY IN MOWING GRASS, CUTTING WEEDS, REMOVING DEBRIS OR OTHERWISE ABATING NUISANCES FOUND TO EXIST THEREON.

2011-2012 School Resource Officer Agreement

Background:

- In 1999, the City and U.S.D. 260 (“District”) entered into a four-year agreement to provide school resource officers (“SRO”) at Derby High School and Derby Middle School.
- More recently, SRO agreements have been for only one year so that financial and other terms could be evaluated regularly.
- The agreement proposed for the 2011-2012 school year is similar to last year’s agreement, with updates to:
 - the financial commitment of each party based on salary and benefit costs for each of the three SROs; and
 - addition of an assignment description and other changes to more completely describe the role of the SRO at each school.
- As was true for the 2010-2011 school year, two SROs would serve at Derby High School and one at Derby Middle School.
- SROs play a vital role in conflict resolution, monitoring of student behavior, education, and overall safety and orderly conduct within the schools.

Financial/Sustainability Considerations:

- The 2011 Approved Budget and the 2012 Recommended Budget include funding for three SROs.
- The City and the District will each pay 50% of the cost of salary and benefits while SROs are assigned to the schools.
- The District will pay \$60,800 to the City for the services of the SROs, one-half at the beginning of each semester.

Legal Considerations:

- The City is empowered to contract with the District to provide law enforcement officers to serve as SROs.
- The school board has authorized the superintendent to execute this agreement on behalf of the District.

Recommend a Motion to:

- Approve and authorize execution of the agreement.

MOTION: Horyna moved to approve the Consent Agenda as presented. Staats seconded.

VOTE: Motion carried 7-0, Nun absent.

EXECUTIVE SESSION

MOTION: Bannon moved to recess to executive session at 7:35 p.m. to discuss a matter of attorney-client privilege, specifically related to the City’s contract with Waste Connections of Kansas, Inc., and to discuss acquisition of real estate for a city park and to reconvene the open meeting here in the Council Room no sooner than 8:15 p.m. allowing for a 5 minute break. Staats seconded.

VOTE: Motion carried 7-0, Nun absent.

The council returned at 8:47 p.m. and Bannon advised that no binding action was taken.

ADJOURNMENT:

MOTION: Craig moved to adjourn at 8:47 p.m. Horyna seconded.

VOTE: Motion carried 7-0, Nun absent.

Dion P. Avello, Mayor

ATTEST:

Jean Epperson, City Clerk