

**APPROVED
REGULAR COUNCIL MEETING
February 12, 2008
7:00 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig, Jim Meidinger
Vaughn Nun, Chuck Warren
Charlie Schwarz, Cheryl Bannon
Mark Staats, George Arnold

Flag salute was led by Council President Charlie Schwarz.

The invocation was led by Kathy Sexton, City Manager.

**CONSIDERATION OF
MINUTES**

Minutes of the January 22, 2008, Regular Council Meeting.

MOTION: Schwarz moved to approve minutes of January 22, 2008 Regular Council Meeting. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren abstain Schwarz yea, Bannon yea, Staats abstain, Arnold yea, 6 yea, 0 nay, 0 absent, 2 abstain, motion carried.

PUBLIC FORUM

Jay Reyes, Chief of Police stated that Officer Miriam Lopez attended the DARE Class in Oklahoma City. Officer Lopez was the honor graduate of that class and was presented with a letter of commendation for a job well done.

Council Member Staats advised that he went through DARE training 18 years ago and it is not easy training to go through and to come out on top of your class is quite an achievement. He went on to state that Derby SRO's have been chosen the model agency of the year by School Safety Magazine. Considering how many SRO programs there are in the United States that is something else for our police department to be proud of.

Council Member Meidinger stated that he saw an armadillo in his back yard over the weekend and thought it was really neat until he saw the destruction the armadillo was creating. He called the police department and was referred to Charlie Miller of animal control who caught it. He complimented Mr. Miller for taking care of it in such a timely manner.

Mayor Avello advised there are some holes on the south side of the street along 71st. He questioned if that was going to be included in the Buckner construction, but it needs to be taken care of.

Kathy Sexton, City Manager stated those had been reported earlier in the week. When you have the snow removal like we did last week the snow plows tear up the asphalt, as soon as the weather allows those holes will be filled.

**ACCEPTANCE OF 2007
HOME
REHABILITATION
GRANT**

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

Background:

- The City applied for \$300,000 in HOME Rehabilitation Program grant funds in August 2007. In the application we pledged the recommended 25% match of \$75,000 to rehabilitate 15 homes. Match sources included \$43,050 in cash, with the remainder coming from building permit fee waivers, sales tax exemptions on materials purchased by contractors and funds from the state's weatherization program.
- In January 2008, the City was notified by the Kansas Housing Resources Corporation (KHRC) of an award in the amount of \$200,000. The award also includes an additional 5% or \$10,000 for administrative fees. Based on average costs, we estimate this will rehabilitate about 10 homes.
- A grant administrator and risk assessor/inspector will be selected to carry out the program on the City's behalf. Letters have been sent to qualified individuals requesting proposals for their services.

Financial Considerations:

- As with the 2006 grant, the City's matching share has been reduced to reflect the actual award amount. Instead of \$75,000 in total matching funds, the City will be obligated to contribute \$50,000 – still a 25% match. As before, included as matching funds are non-cash contributions generated by sales tax exemptions on materials (estimated at \$780 per home), building permit waivers (estimated at \$150 per home) and funds from the state's weatherization program (estimated at \$1,200 per home).
- Therefore, the City's estimated cash contribution will be \$28,700 and total non-cash contributions will be \$21,300. Assuming that 10 homes are rehabilitated, the City's cash contribution per home will be about \$2,130. Although the grant does include an additional 5% award to cover administrative fees, additional administrative fees may be needed, depending upon the grant administrator and project inspector selected. The 2006 program included an additional \$3,000 for grant administration services.

Legal Considerations:

- Accepting the grant award will obligate the City to contribute matching funds and carry out the program as outlined in the grant agreement, with all funds committed to specific projects no later than March 1, 2010 and all work completed no later than March 1, 2011.

Policy Considerations:

- Funding for this program was approved during the 2008 budget process, with money budgeted for the City’s cash match included in the Code Enforcement Division’s budget.
- We will make applications available to homeowners in the target area and begin advertising the program in February. In this round, qualified homeowners will be placed on a new waiting list on a first-come, first-served basis. The qualified applicants from the current applicant pool (for the 2006 HOME Grant) will be served first, and then we will move to those placed on the new list.

MOTION: Arnold moved to authorize the mayor to sign the grant agreement accepting the award. Schwarz seconded.

DISCUSSION:

Council Member Craig asked if the administrator for the 2006 grant has been satisfactory so far.

Mrs. Moeding advised we have been very pleased. We hired South Central Kansas Economic Development District (SCKEDD) to both administer the grant and also do the inspection. We have been very pleased with the service we have received from them.

Council Member Craig asked if they will be a candidate for the next grant, or does it have to go to someone else?

Mrs. Moeding explained it does not have to go to someone else, they have indicated they plan to submit a bid for the services. Last year they were the only firm that bid for both the grant administration and project inspection services.

Council Member Meidinger asked if this comes out of the \$10,000 administration fee.

Mrs. Moeding advised that was correct. SCKEDD has indicated their bid will probably include an additional amount, above the amount the state provides. They have found that the 5% does not typically cover their staff costs so last year in their bid they included an additional \$3,000.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**TRANSIENT GUEST TAX
REBATE AGREEMENT**

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

Background:

- On October 9, 2007 the Council approved resolution 59-2007, which authorized the City to enter into an agreement with Raju Sheth providing for the rebate of transient guest taxes (TGT) in connection with the construction and operation of a Hampton Inn or Holiday Inn Express. The resolution approved by the Council allows a rebate of TGT revenues back to the developer until the hotel reaches 70% occupancy for two consecutive years, then declining by 1% annually OR for a period of 10 years, whichever occurs first.
- The TGT rebate agreement was part of the hotel proposal recommended for approval by the Economic Development Board last year and is a key element in achieving the desired flag for the city's first hotel.
- The hotel, which will include 55-60 rooms, an indoor swimming pool, breakfast and small meeting room, business center and fitness center, is planned to start construction this summer and open in March 2009.

Financial Considerations:

- Payment shall be made to the developer annually, within 60 days of receiving payment from the Kansas Department of Revenue (KDOR).
- The estimated annual value of the TGT, depending upon average daily room rates and actual occupancy, ranges between \$39,000 (based on 55 rooms, 50% occupancy and an average daily room rate of \$65) and \$87,000 (based on 60 rooms, 70% occupancy and an average daily room rate of \$95).
- The source of the rebate payments is the city's 6% TGT that is to be levied on all gross room receipts. This tax is paid by guests staying at the hotel.
- The rebate to the developer will not include any administrative fees retained by KDOR as part of the TGT collection and remittance process.
- In the event additional lodging facilities open in the future, the rebate will only include the taxes generated by this hotel.

Legal Considerations:

- Cities are authorized to levy and collect TGT revenues under K.S.A. 12-1693. Use of TGT revenues for "convention and tourism promotion" includes 1) activities to attract visitors into the community or 2) support of activities and organizations which encourage increased lodging facility occupancy. Hutchinson and Junction City are two other Kansas communities that have utilized TGT rebates as a tool to attract a certain caliber of hotel in order to increase lodging occupancy and improve tourism opportunities.
- The TGT rebate agreement was prepared by the City's bond counsel, Gilmore & Bell and has been reviewed by staff as well as the developer and his representatives.

Policy Considerations:

- The agreement includes provisions that will ensure the City receives the same reports that are submitted to the franchise. That monthly report will accurately reflect the occupancy levels and allow the City to calculate when the target occupancy level is reached. The City will also receive monthly reports submitted to the Kansas Department of Revenue regarding occupancy and room revenues.
- As discussed by the Council, the hotel must meet several criteria, including:
 - Be located at Cambridge & Newberry Streets;
 - Consist of both standard rooms and suites; and
 - Open as a Holiday Inn Express, Hampton Inn or Comfort Inn and continue to maintain a flag listed in the "Mid Scale without Food or Beverage" category of the Smith Travel Research Chain Scale Report.
- Developer Raju Sheth has agreed to the following:
 - To use the proceeds of the TGT rebate to support marketing and promotion of the facility; and

- To personally maintain a minimum 25% ownership in the company. Remaining shares in the company will be made available to other investors.
- Approval of the TGT rebate agreement will be followed by the bond documents in March to finalize the incentives related to the hotel project:

DISCUSSION:

Council Member Meidinger stated there is a rumor that there might be a 2nd motel coming to Derby. If a 2nd or 3rd motel were to come to Derby, would this same policy be available to them?

Mrs. Moeding advised that would be up to the council, but staff's position to other developers who have approached them has been no. We were very clear in our process that we were going to select one for these incentives and one only.

Council Member Meidinger stated he thinks it is bad public policy to give the first individual all the breaks, including the property tax breaks included here. He thinks if he were going to a local retail store and the person in front of him bought something for \$85.00 and he buys the same thing but is charged \$100.00 he would question the policy and whether or not he would return to the business. He thinks it is a bad policy that we have enacted and does not think it is fair to the next motel, or the 3rd one and he will vote against it. He added that when Mandy Wagner was here she indicated that the state ad valorem tax has been cut back so a source of revenue has been cut back and we thought we had another one with the guest transient tax. We have made a bad decision.

Council Member Craig asked how the expenditures of the transient guest tax will be tracked. What is the accountability of the money that goes back to the developer to use in accordance with our agreement?

Mrs. Moeding explained that is a situation where we will have to take the developer at his word. One thing that makes Hampton Inn and Holiday Inn different from other franchises is that they do require a specific marketing person dedicated to that purpose. Mr. Sheth has indicated that these funds would be used to pay for that marketing person, although it is her understanding the full cost will not even be covered.

Council Member Craig pointed out that if Mr. Sheth only has 25% ownership in the company, which means he will not have a controlling percentage of that company it will be allusive as to whether he can maintain that or not. He questioned what Derby will be getting out of the money earmarked for marketing and promotion of the facility and the City of Derby.

Mrs. Moeding stated it would be important to note that as the only Hampton Inn or Holiday Inn Express in Derby, that in and of itself when someone is looking for a hotel in Derby will obviously be something. Paying those marketing fees that are used for the reservation systems, brochures and all the things that are establishing the hotels presence will be helpful. In the transient guest tax agreement the tenant "does agree to separately account for the collection of rebate amounts and dispersements" so we will have that information available to us.

Council Member Craig stated he was not to comfortable with saying we just have to take his word for it. We need to have documentation of the transfer of funds and how the funds are being used. If that is written as stated then he can see that it's covered.

Ms. Sexton explained that is exactly what that section means. The tenant is required to report not only before the money is collected and dispersed, but to report it separately as this section says. The monies would not be commingled with other monies; they would be reported separately and used for these purposes.

Council Member Craig indicated that is all well and good but the document indicates in one section that Mr. Sheth is guaranteeing that, however he is going to have the opportunity to not have controlling interest in the business, and the controlling interest in the business might decide something else.

Ms. Sexton agreed that was a good point. The agreement is with the corporation.

Council Member Bannon asked about item #5, it doesn't specifically say "in Derby", is that part of the act?

Mrs. Moeding stated it would include the jurisdiction where the hotel is located.

Council Member Bannon stated she knows he owns some other hotels and would prefer the money made here stay here. As far as #7, do we have plans as far as looking at the tenant's books and records?

Mrs. Moeding indicated our plan at this point is to review at the same time we look at our other economic development agreements with other businesses to review this information at the same time and present it to the council on an annual basis.

Council Member Bannon asked if there is a reason we don't know which hotel yet since construction is supposed to start in March. She was under the understanding that Mr. Sheth had put down a rather large sum with one particular hotel.

Mrs. Moeding stated she believes he has put money down with both hotels and we are very close to coming to an agreement. At this point we don't have final approval. She believes he is comfortable in saying it will either be a Hampton Inn or Holiday Inn Express. Construction is probably not going to start until probably June or July.

MOTION: Warren moved to approve the agreement and authorize the mayor to sign. Schwarz seconded.

Council Member Arnold advised he spent 15 years in a franchise business, selling and buying franchises back and in every case with a major corporation, once an agreement is signed, they are obligated to spend a certain number of dollars promoting and advertising their business, the flag requires that. No matter who owns the facility that never goes away, as long as their name is on

the building they are required to promote that business and it's a contractual agreement if he is not mistaken.

Council Member Craig asked for clarification that Mr. Sheth has put up money for both flags.

Mrs. Moeding advised that was correct. He has put down money as part of the application process for both flags.

Council Member Craig indicated that they have dated information that said there was just one, that is why we are asking questions.

VOTE: Craig yea, Meidinger nay, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 7 yea, 1 nay, 0 absent, motion carried.

ADOPTION OF UPDATED BUILDING TRADE CODES

Phil Alexander, City Attorney presented the staff report.

Background:

- Building and trade contractors working in Derby are currently governed by the Uniform Building Code, the Uniform Mechanical Code, the Uniform Plumbing Code and the National Electrical Code, none of which have been updated for about 10 years.
- During this time, many changes have occurred in building materials and methods.
- Most jurisdictions, including Wichita and Sedgwick County, have migrated from Uniform Codes to the several International Codes.
- The City of Wichita created a committee composed of builders, suppliers, architects, engineers and area building code officials to study construction regulations. Derby Building Code Official Dale Wasinger served on this committee. The committee recommended updating to the more modern codes promulgated by the International Code Council:
 - 2006 International Building Code for buildings and structures generally (“IBC”)
 - 2006 International Residential Code for residential structures (“IRC”)
 - 2006 International Plumbing Code (“IPC”)
 - 2006 International Mechanical Code (“IMC”)
 - 2006 International Fuel Gas Code (“IFGC”)
- The committee also recommended adoption of the 2005 National Electrical Code. Practices in the U.S. which use AC power and in other countries where DC is more common preclude development of a standard international electrical code.
- All recommended changes were adopted by the City of Wichita; many were also adopted by Sedgwick County.
- Derby’s Building Official and its Board of Construction Trades and Appeals (BCTA) separately reviewed each of these codes and now recommend their adoption with certain local amendments set out in each ordinance. The Building Official and BCTA also recommend adoption of the 2005 National Electrical Code with certain local amendments set out in the ordinance.

Financial Considerations:

- None. Our Building Official is already familiar with the proposed regulations and will not require additional training.

Legal Considerations:

- The Council may adopt the recommended trade codes by reference and may make such local amendments as it finds appropriate.
- The City Clerk must keep one copy of each adopted code, with local amendments, on file and available for public inspection.
- A separate ordinance has been prepared for each proposed code.

Policy Considerations:

- Adoption of the recommended trade codes and local amendments will result in some departures from past practice. In other instances, current practice will continue. The following is a summary of the major impacts resulting from adoption of these codes.
- **2006 International Building Code**
 - Fire sprinkler systems will be required in any apartment building with more than four units and in restaurant/bar structures having an occupant load greater than 100. Because Sedgwick County had to consider the absence of a public water supply to many areas, it did not adopt this requirement.
 - A requirement for a special inspector to be on site of large commercial projects will be retained. The Building Official currently makes this decision on a case-by-case basis and informs the architect of this requirement during plan review. This inspector gives the Building Official weekly project reports on the status of the project. A special inspector was required on the Lowe's, Kohl's, and Target projects and is expected to be required on the Dillon's project. Out-of-town builders are familiar with the requirement as it applies in many jurisdictions. In Wichita, this requirement applies only to projects of over 100,000 square feet. Sedgwick County elected not to require special inspectors on any projects.
 - Parts of Chapter 11, dealing with handicapped (ADA) requirements, will be included so that buildings used by religious organizations and private clubs will meet ADA requirements. This is consistent with Wichita's code. Sedgwick County did not adopt Chapter 11.
 - As proposed, our code would incorporate the Wichita committee's recommendations and those of our Building Official, made with an eye to the City's limited staffing and the capabilities of its Fire Department.
- **2006 International Residential Code**
 - All windows and garage doors will be required to meet 90 mph wind loading.
 - All houses will be required to have approved sheathing and a house wrap installed under the exterior siding. The sheathing requirement is not found in Wichita or Sedgwick County codes but was included based on the request of several City Council members.
 - Smoke detectors will now be required in sleeping rooms. Wichita and Sedgwick County require smoke detectors only in the room that gives access to bedrooms, not in the bedroom itself as the code states. The BCTA believes safety is enhanced when smoke detectors are placed in bedrooms because children playing with matches often do so in bedrooms or closets, people often burn candles in their bedrooms or adjoining bathrooms, people may smoke in bed, and bedroom doors are often closed. Under any of these circumstances, a smoke detector located only in a hallway will be much less effective.

- **2006 International Plumbing Code**
 - The 2006 IPC is advantageous due to the number of new commercial projects anticipated. Such projects are often designed by out-of-area architects who prefer to use the International Plumbing Code.
 - Fewer vents are required.
 - Use of air admittance valves is permitted.
 - Our Building Official and the BCTA recommend adoption of the 2006 IPC. It has been used effectively since its initial publication in 2000.
 - Sedgwick County and Wichita have adopted the 2006 Uniform Plumbing Code.

- **2006 International Mechanical Code**
 - Large heating and cooling units will be required to have smoke detectors located in return air duct work.
 - Fresh air will now be required in all residential applications via a dedicated duct line.
 - As proposed, the IMC will be substantially identical to codes adopted by Sedgwick County and Wichita.

- **2006 International Fuel Gas Code**
 - The IPC and IMC have no provisions regulating gas-fired appliances. If the IPC and IMC are adopted, the IFGC should also be adopted to fill this gap.
 - Wichita and Sedgwick County do not use the IFGC because the Uniform Plumbing Code regulates gas-fired appliances.
 - As proposed, the IFGC will be substantially similar to current plumbing and mechanical code requirements.

- **2005 National Electrical Code**
 - Arc fault circuit interrupter devices will be required in bedrooms.
 - Conduit will be required for wiring on all commercial projects. Our current regulations allow use of non-metallic wiring in some commercial applications.
 - As proposed, the NEC will be substantially similar to current electrical code regulations as well as those of Sedgwick County and Wichita.

ORDINANCE NO. 1918

AN ORDINANCE AMENDING SECTION 15.12.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR ADOPTION BY REFERENCE OF THE 2006 INTERNATIONAL BUILDING CODE, PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION ALTERATION, REPAIR, LOCATION, MAINTENANCE OF STRUCTURES; AND REPEALING ORIGINAL SECTION 15.12.010 OF SAID CODE.

ORDINANCE NO. 1919

AN ORDINANCE ADOPTING BY REFERENCE THE 2006 INTERNATIONAL RESIDENTIAL CODE, PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, AND USE OR MAINTENANCE OF CERTAIN RESIDENTIAL STRUCTURES.

ORDINANCE NO. 1920

AN ORDINANCE AMENDING SECTION 15.16.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR ADOPTION BY REFERENCE OF THE 2006 INTERNATIONAL PLUMBING CODE, EXCLUDING ITS SEVERAL APPENDICES, BY REFERENCE; ALL PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITIONS TO, AND USE OR MAINTENANCE OF PLUMBING SYSTEMS WITHIN THE CITY OF DERBY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; AND REPEALING ORIGINAL SECTION 15.16.010 OF SAID CODE.

ORDINANCE NO. 1921

AN ORDINANCE AMENDING SECTION 15.24.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR ADOPTION BY REFERENCE OF THE 2006 INTERNATIONAL MECHANICAL CODE, PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, AND USE OR MAINTENANCE OF ALL MECHANICAL SYSTEMS, APPLIANCES, AND DEVICES; AND REPEALING ORIGINAL SECTION 15.24.010 OF SAID CODE.

ORDINANCE NO. 1922

AN ORDINANCE ADOPTING BY REFERENCE THE 2006 INTERNATIONAL FUEL GAS CODE, PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, AND USE OR MAINTENANCE OF ALL FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES.

ORDINANCE NO. 1923

AN ORDINANCE AMENDING SECTION 15.20.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR ADOPTION BY REFERENCE OF THE 2005 NATIONAL ELECTRIC CODE, ALL PERTAINING TO THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF ALL ELECTRIC WIRING, APPLIANCES, OR DEVICES FOR LIGHT, HEAT OR POWER IN THE CITY OF DERBY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; AND REPEALING ORIGINAL SECTION 15.20.010 OF SAID CODE.

DISCUSSION:

Council Member Warren stated that for the most part he is in agreement with the recommendations that staff has made on all of the codes. He has been in a house that required the amendment that is different from Sedgwick County and the City of Wichita for smoke detectors, both inside the room and in the hallway outside of the room. He has been in houses where all three bedrooms are at one end and within 4-feet you can see 4 smoke detectors, one directly above your head and one in each room. Sedgwick County and the City of Wichita have both looked at this and deemed that to be an overkill situation. He doesn't want to downplay the safety aspect of this, but sometimes there is a limit to how much we need to put on this thing. He really believes in that situation, a smoke detector at the entrance of the doorways would be more than adequate. In addition, he could probably go without that if we put them in the bedrooms but then didn't put one in the hallway, at least we would eliminate the cost of one smoke detector if we felt like the safety issue had to be in that bedroom. Personally he thinks it really is an overkill situation. He added that to the greatest extent possible he would like to see us keep our codes in uniform with the rest of the community around us, it makes it much easier for the builders and developers to follow the rules when there isn't one set of rules for Mulvane and another set for Derby, etc. If the rules are uniform it really makes it easier for everyone concerned.

MOTION: Warren moved to adopt the 2006 International Building Code, 2006 International Residential Code, 2006 International Plumbing Code, 2006 International Mechanical Code, 2006 International Fuel/Gas Code and the 2005 International Electric Code as proposed with recommended local amendments, excluding the requirement for smoke detectors in each and every bedroom. Staats seconded.

Council Member Bannon asked why we are wanting to change the number of vents going through to the top of the roof.

Dale Wasinger, Building Trades Official advised that currently Sedgwick County and Wichita are using the Uniform Plumbing Code, which is still in existence, however 38 states have adopted the International Plumbing Code which is written by the ICC. The reason he is going to the IPC is because of our commercial work that is coming in is being drawn by out of town architects and it's usually drawn under the IPC. Rather than buck that trend he feels it is time we go with the IPC rather than stay with the Uniform Plumbing Code. The UPC people are speaking with the IPC people and trying to work out their differences and he feels within the next code cycle the UPC will probably join the IPC.

Council Member Bannon asked if we have ever made a projection of what all these changes will do to each individual house?

Mr. Wasinger stated that would be determined by the size of the house. The house wrap would be the biggest cost and would be determined by how large the house is. Any approved house

wrap would be acceptable, including tar paper. There are a lot of products out there that are approved. His estimate is that the changes will add, on the average, \$1,200.

Council Member Bannon asked if Sedgwick County and Wichita have the same regulations for windows and garage doors, or just garage doors.

Mr. Wasinger stated that Wichita and Sedgwick County require the 90 mph garage doors and windows.

Council Member Bannon agreed with Mr. Warren about the smoke detectors.

Mr. Wasinger stated they could maybe take the requirement out of the hallway but he still would like to have one in the higher ceilings because smoke goes up to the top first and works its way down. The hallway usually is the same ceiling height as the bedrooms, so if we could get that maybe in a higher room, the living room for example. It could state that if there is a 24 inch height differential then another one would be required.

Council Member Bannon commented that most of the vaulted ceilings have to have one anyway.

Mr. Wasinger explained that what brought this issue up is that a member of the Derby Fire Department had been with Wichita's fire department and stated he had taken dead children out of bedrooms because they were playing with candles or matches in the bedroom and a smoke detector was not in there. By the time the smoke got through the door and out to the hallway the room was gone and the parents did not know anything was going on. He is willing to look at moving that one out of the hallway, but he would like to keep the ones in the bedroom if he could.

Council Member Warren stated he could live with one in each of the bedrooms if we didn't have to put one in the hallway, and put one in the living room or kitchen area.

Council Member Craig asked if a potential home owner/builder decided to put in a high tech smoke detecting system that is monitored elsewhere in the city are they still required to put a battery operated one in each and every bedroom.

Mr. Wasinger advised the code really doesn't like those because they are monitored off site. If you don't pay for that service then you do not have that service and they don't work. He has made exceptions where they have put batteries in them so they still work, although not monitored off site.

Council Member Craig stated that if he decided to discontinue the service, his smoke detector still works because it's hooked up. It goes off and then notifies them by landline that something has happened. If a person is going to put something in that is more advanced, we are still going to require a smoke detector in each room, is that correct?

Mr. Wasinger advised it would not be necessary if they can prove to him that it will work without being monitored. They would have to activate it to prove it does work without the monitoring system.

Council Member Meidinger asked what the rationalization was for the additional smoke detectors, and what does a smoke detector cost? He would not want to get involved in a nickel and dime discussion if the fire department and the building code people think it's that important.

Mr. Wasinger stated that electricians charge the builder \$50 per detector because they have to be wired to the circuit of the house, as well as have a battery back up.

Council Member Meidinger indicated that was a pretty tough call, \$150 on a \$150,000 dollar house, when you consider the safety aspect and the fact children do tend to play with matches in a closed area. He thinks we should go ahead with the additional detectors.

Mr. Wasinger commented, that with Mr. Warren's amendment he thinks he could work out something where they could move the one out of the hallway if that is the sticking point. He had thought about that before when he talked to the trades board but couldn't figure out how to write it.

Council Member Schwarz stated that if Mr. Warren would change his motion he would be willing to support it, but the way it was originally stated he won't support it. There is a lady he worked with who had kids play with matches in a bedroom and it was not a good result, he is a fan of smoke detectors in all the bedrooms. If Mr. Warren would be willing to amend the motion so there are detectors in the bedrooms he will support it.

Council Member Warren advised he is willing to make that amendment to put smoke detectors in the bedrooms. He asked if staff would like a motion tonight to that effect or would they like to work on the wording. We could approve the rest of this tonight and approve the wording on the bedroom later, or should we make an attempt at instructions tonight.

Ms. Sexton stated she would prefer Mr. Warren withdraw his motion and make a new motion to exclude the smoke detector in the hallway outside the bedrooms. That clearly gives us the intent and we will write up the technical language before it's ready for signature by the mayor.

Council Member Warren withdrew his motion.

Council Member Staats withdrew his 2nd.

Amended motion: Warren moved to adopt the 2006 International Building Code, 2006 International Residential Code, 2006 International Plumbing Code, 2006 International Mechanical Code, 2006 International Fuel/Gas Code and the 2005 International Electric Code as proposed with recommended local amendments, excluding the requirement for smoke detectors in the hallway, if at the same

height and direct staff to devise wording to that effect. Staats seconded.

Council Member Staats asked if you had a 3-bedroom ranch house and put smoke detectors in each bedroom, are we still going to have one in another part of the house.

Mr. Wasinger stated that assuming the ceiling level were the same throughout the house and the bedrooms are all on one side of the house that would be a sticking point. According to what we are talking about here, probably not.

Council Member Staats indicated he agreed with Mr. Warren originally as far as having one in the hallway with 3 adjacent bedrooms. If we are eliminating the hallway one, should we have it somewhere else in the house, whether it's in the living room or at the opposite end of the house. If all the bedrooms doors are closed and you have a fire in the kitchen, how long is it going to take to reach the bedrooms? He thinks we need to make sure we have adequate coverage throughout the house, but is not sure of the correct verbiage.

Mr. Wasinger thinks we could come up with a distance requirement or something of that nature.

Mayor Avello asked if we are going to require a sprinkler system, along with smoke detectors in the new hotel.

Mr. Wasinger stated we would. The smoke detector situation is strictly in residential housing. The hotel will have sprinklers, smoke detectors, fire rated walls and corridors, etc.

Council Member Meidinger pointed out that we have essentially had a discussion for 30 minutes over nothing if we are requiring detectors in each bedroom and one somewhere else, the cost will be the same.

Mayor Avello indicated that what Mr. Warren was saying is that in a 3 bedroom house and hallway, you would have had 4 detectors in a 6-foot range.

Council Member Warren stated he doesn't have a problem with requiring a smoke detector in the kitchen. It makes a lot more sense to him to have a smoke detector in the kitchen and three in the bedrooms then having four at the entrance to the bedrooms. It's not just a cost factor; it just looks so stupid to have four smoke detectors within 4-feet of each other.

Council Member Staats added that it negates the safety if they are all at one end of the house and you don't have any at the other end of the house.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**ADOPTION OF 2006
INTERNATIONAL FIRE
CODE AS AMENDED**

Brad Smith, Fire Chief presented the staff report.

Background:

- The 1997 Uniform Fire Code (“UFC 97”), with local amendments, is currently in force as the adopted Derby fire code. The Uniform Fire Code is no longer supported by updates, and the current version is 10 years old. The Derby Building Code Official and the Derby Fire Chief recommend updating the current codes to the International Code Council 2006 codes.

Financial Considerations:

- No financial considerations.

Legal Considerations:

- The Council may adopt the 2006 International Fire Code by reference and may make such local amendments as it determines appropriate.
- The City Clerk must keep one copy of the adopted code, with local amendments, on file and available for public inspection.

Policy Considerations:

- Chapter 8.16 of the Derby Municipal Code outlines the adoption of fire codes to help the department in meeting requirements for providing effective code enforcement for the City of Derby.
- The International Codes and the several amendments incorporate current applicable laws and regulations including the Americans with Disabilities Act and regulations applicable to storage of hazardous chemicals in certain zoning districts and storage of liquefied propane gas tanks in areas where natural gas for heating is available. A permit will now be required for any type of burning (bonfires, recreational fires, and ceremonial fires). Requirements for day care facilities will apply only to those with more than 10 children, instead of the current 5 children. Sprinkler systems will be required on multi-family housing only if there are 5 or more living units in the same building. A fire alarm system will be required only if an assembly-type building has an occupancy rating of 300 or more. The new code better accommodates buildings exceeding 50,000 square feet for things like smoke and heat vents and draft curtains.
- The amendments to the 2006 International Fire Code correspond also to the recommended amendments to the 2006 International Building Code.
- Adoption of the 2006 International Fire Code will avoid conflicts with other building trade codes recommended for adoption, including the International Building Code and its companion codes.
- Many of the surrounding communities, including Wichita and Sedgwick County, as well as the State Fire Marshal’s Office use some form of the international codes.
- With the growing retail business that’s coming to Derby, it is important that we have a strong, up to date code to make sure we are creating a safe environment for our citizens and for the future.
- Adoption of the IFC supports the City’s values of safety and stability, as set forth in its Strategic Plan: *“Good planning ensures stability in codes and community standards...”*

ORDINANCE NO. 1924

AN ORDINANCE AMENDING SECTION 8.16.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR ADOPTION BY REFERENCE OF THE INTERNATIONAL FIRE CODE, 2006 EDITION; ALL PERTAINING TO THE PREVENTION AND SUPPRESSION OF FIRE; ADOPTING CERTAIN AMENDMENTS THERETO; AND REPEALING ORIGINAL SECTION 8.16.010 OF THE DERBY MUNICIPAL CODE.

DISCUSSION:

Council Member Meidinger asked about the change in requirement for day care centers, going from five to ten. He thinks we should keep it at five, it is the current code so the existing homes have it and anybody else coming in could adjust to the five. If you have ten children running around there is obviously twice the problem and asked for the chief's rationalization for changing it.

Chief Smith stated that his code changes mirrored the building code changes that were adopted tonight. The Kansas Department of Health and Environment licenses day cares and the State Fire Marshall sets their limit at 13 so we are still a little more restrictive than they are. We are also talking about a little bit of difference between a home day care and an educational facility, which has something to do with why we raised that limit up there to ten or more, we didn't want to place a hardship on the homeowner or resident that has a daycare, it isn't changing the rules for the people who are already in business.

Council Member Meidinger clarified that the old day care centers would be under the five child program and the new ones registering would be under the 10 children rules.

Chief Smith advised that was correct. In reality, under the '97 code it was six or seven over so they weren't down to five either. Five is what the International Fire Code recommended.

Council Member Bannon asked about Section 307.1, she understands why we don't want bonfires but has a question about recreational fires. She asked if the portable backyard fireplaces and fire pits that are very popular right now were allowed.

Chief Smith advised those are allowed.

Council Member Craig stated there is a business in town that has an open fire, does it come under that.

Chief Smith advised it does.

Council Member Craig asked if they needed a permit for that.

Chief Smith advised they do.

Council Member Craig asked how much a permit is and who approves it.

Chief Smith advised the permit did not cost anything and it would be himself or a representative from the fire department that approves it. The idea of the permit is to let dispatch and 911 know that someone has a fire and prevents unnecessary fire responses.

MOTION: Warren moved to repeal the 1997 Uniform Fire Code and its amendments and approve adoption of the 2006 International Fire Code and various amendments as presented. Craig seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

PURCHASE OF LAND FOR PUBLIC WORKS FACILITY

Kathy Sexton, City Manager presented the staff report.

Background:

- On January 8, the City Council approved annexation of 269 acres of land near 55th and Oliver for an intended business park dubbed by owner Bill Lusk as Derby Corporate Park. Lots are planned to range from two to 30 acres to serve a variety of business uses including aircraft subcontractors, warehouses, and regional distribution centers. Platting and zoning are the next steps in development of the park.
- In response to an identified need for a public works facility, the City engaged Weigand Realty representatives Doug Malone and John Rupp to identify properties suitable to meet this need. A 25-acre tract along 55th Street South in the Derby Corporate Park is proposed for purchase by the City.

Financial Considerations:

- Instead of a cash purchase price, an agreement is proposed that would obligate the City to install at City expense the water and sewer mains to service the Derby Corporate Park. This obligation is estimated to cost approximately \$607,500, payable to the construction and engineering firms that the City hires to complete the work. Design and construction are planned for 2008, although it's possible that construction may not be completed until early 2009. Funding is available in the capital improvement reserve account.

Legal Considerations:

- The City is empowered to purchase and own real property for any public purpose.
- The land purchase agreement protects the City's interests.
- The property will be surveyed and an environmental assessment completed prior to closing on the property. The purchase contract provides that the City may elect to terminate the agreement without penalty in the event marketable title cannot be delivered or the environmental assessment discloses unacceptable risk.

Policy Considerations:

- The need for additional land and updated facilities for the Public Works and Parks Department was identified several years ago. Because of its size and location, the proposed land is well suited to meet the needs of the City well into the future.

- In 2007, the City engaged the services of an architectural/engineering firm to develop a master plan layout for a new public works facility. That work is underway. Once completed, a design will be developed and submitted for approval by the Council. Construction of the facility is planned for 2009.
- In addition to satisfying the need for a site for a public works facility, this contract also solidifies the City of Derby's commitment to our mission of nurturing a strong business community. Extending water and sewer mains to the new Derby Corporate Park will jumpstart industrial and business development in a prime location and demonstrate Derby's commitment to be a partner in such development.

DISCUSSION:

Council Member Meidinger stated he is in favor of expansion of Public Works and it is long overdue. We have current expansions of city hall, the police department, city hall and our wastewater treatment plant is always being expanded as well as the senior center. Currently we have a study of the parks and open spaces plan and he is sure they will tell us we need to expand that. The current public works area is about 4 acres, give or take some and the requested area is 25 acres, which seems like a large amount. His proposal is to consider the land at the current industrial park, although he doesn't know how many vacant areas there are, with proper planning these pieces of land could accommodate the public works department. The advantage he sees is that the utilities; water, electricity are all completed. This would give public works the land they need. Obviously some of the current buildings at public works are so outdated that Dale would probably shut us down tomorrow if he went down and looked at it. These buildings probably just need to be demolished and we start all over again. He thinks we could accomplish this without adding the \$600,000 public debt that we would incur under this plan. He thinks that when Derby needs 25 acres for public works, having it all up in the north end would have all the eggs in one basket, maybe some day we would need 10 acres up there. By the time Derby gets to the point we would need 25 acres we would have it all concentrated in one area. Another issue that has been discussed is the proposed expansion of Madison Avenue to the west to enhance the current industrial park to add sale ability to those lots and depending upon the cost we are looking at \$500,000 to go to the current industrial park that doesn't seem to be working right now. If we get a new industrial park in the north part of Derby we will never get anything out of the current park we have now because of the location, that is the biggest problem. What he would like to see is to have public works prepare a scale model of exactly what they need. Right now we are buying 25 acres of land and he doesn't know if he has seen a plan on that or not, he would like to take the building needs that Mr. Mendoza has and see if they can be fit in the current industrial park we have right now and investigate that before we go \$600,000 in debt.

Motion: Meidinger moved to table the land purchase until we get a study completed with the actual land needs that Mr. Mendoza is requesting.

Motion died for lack of a 2nd.

Council Member Bannon advised that at one time she asked those same questions about the industrial park and back when we platted, zoned and sold those lots it was stipulated that uses such as public works would not go in up there. She asked if there is a reason we can't run the water line up there with the sewer lines.

Dan Squires, City Engineer advised you cannot run water and sewer parallel within 10-feet of each other, but certainly you could configure it to do something different than that. It is very typical to run water lines along the fronts of properties and sewer lines along the rear. A lot of those configurations have to do with the way water and sewer work. The sewer is gravity fed and its much more terrain dependant than the water line is. It would be hard to serve the lots with the water line configured along the sewer line.

Council Member Bannon asked about Item 9(b), will the rezoning happen prior to the 30-day closing or will it happen after.

Ms. Sexton advised that is the intent and is in the works but she does not know if it can be completed in exactly those time frames.

Mr. Alexander stated that the 30-day period actually commences when all of the contingencies are satisfied. Because of the various things that are required we fully expect that it will be very late this year before the property is actually closed on.

Council Member Bannon stated she would hate to see something that we are going to have to rezone to the satisfaction of the seller.

Ms. Sexton explained that staff has had some very clear conversations about this. The council is very different as a council as they are as a buyer of a piece of property. The council cannot be bound contractually to do anything as far as zoning. This just says, if the zoning doesn't work out, that just means that we are not buying this piece of property. This contract does not bind anyone to anything as far as the zoning type.

Council Member Bannon asked if the chip site would be moved to this site as well.

Ms. Sexton advised it would.

Council Member Bannon stated that hopefully we could then talk to the school board about that particular 5 acres. What else would be planned for the 25 acres?

Ms. Sexton explained that we do have a 4 acre spot by the river and it is so far out of date, it is not adequate for what we are doing now, in fact we are using the 10-acre site at High Park, so if you add those together we really are using 14 acres right now. If you think about it that way it's not such a big jump up to 25 acres. You have to remember too, the master plan that is currently being developed for this public works yard is something that we are thinking is going to see this city into the next 25 years. Similar to the library project we are not building this for today, we are building it so we don't have to move it again in 10-15 years; we have enough land there to take care of those needs.

Council Member Bannon stated she hoped we could talk to the school about the 10 acres and how we could incorporate that into High Park. Another thing, if we are not going to use our current industrial park as our main industrial park anymore perhaps we should reconsider doing that new railroad overpass that we had looked at. She doesn't know that that is something we should still do, maybe we should step back and reevaluate that.

MOTION: Bannon moved to approve the Real Estate Purchase Agreement and authorize the Mayor to sign. Staats seconded.

Council Member Warren advised that Cherry Street is something we could take a look at, but we have a fair amount of our city that is on the other side of the tracks and as it is now we have safety issues because of fire and other issues that would still merit us looking at doing something with the tracks. The public works issue has been in discussion for a number of years now and we actually made an attempt to buy land close to this location and it is not the ideal location. He knows Robert would like to have something a little closer to the center of town, but everything close to the center of town is near residential areas and there really is not anything that would be appropriate for this kind of facility near the center of town. The thing that came to his mind when looking at this is if \$607,500 a good price for the land? It comes out to a little over .55 cents per square foot and that is cheaper than what we are asking for our land in the current industrial park so this appears to be a fair price.

Council Member Schwarz advised this parcel of land is right underneath the flight zone for McConnell and one of the things he has been worried about is the encroachment of residential areas. That will kill any kind of an air base faster than anything else. We are getting an industrial park, and satisfying a lot of the pieces of the Joint Land Use Study. His only disappointment is that the school board couldn't have come along with this. The reason he says that is he thinks the DRC is running out of space rapidly and could probably use some expansion of facilities and it would be perfect to go across the street into the bus barn area. It is unfortunate they are not along for this ride, but they have their reasons. He supports this and thinks it's a win win for Derby and McConnell Air Force Base as well.

Council Member Meidinger stated he had asked in the past about extending the water line over to K-15 and asked if anything had happened with that.

Mr. Squires advised at that location on K-15 they would be hooking into Wichita's water line, not ours, and we are metered downstream of that point. We would have to construct another metering facility in order to do that.

Council Member Craig asked if it was anticipated that Derby would be responsible for building part of the loop around the property? What is our obligation as far as entrance into the property?

Ms. Sexton asked if he meant the streets.

Council Member Craig advised he did.

Ms. Sexton explained that when the adjoining lots sell, or when the city wants the streets put in the property owners, which would include the city would put in that street. We would have a portion to pay, basically 50% of this street at that point in time.

Council Member Craig stated he is presuming by that statement that we could access off of 55th street straight into the property and develop what we want.

Ms. Sexton advised that is the plan. We would, at this point in time design our facility and construct it in 2009. Who knows when the adjoining lots will sell, it could very well be that they sell the lots along Oliver first, in which case we would not pay for that street. At the point when they sell the lots on 55th and they need to put in the internal streets the city would benefit from that street and would, according to city policy as a property owner, not this contract per se, help pay for those streets.

Council Member Craig indicated the only thing he would note for the future is, since you are going to change the entire utilization of 55th Street, probably the county would be interested in what has to be done in the future to preserve that road because it will take a lot of heavy use.

VOTE: Craig yea, Meidinger nay, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 7 yea, 1 nay, 0 absent, motion carried.

**SOUTH K-15 GATEWAY
AND HIGH PARK
ROUNDAABOUT
ENTRANCE
LANDSCAPING
PROJECT**

Kathy Sexton, City Manager presented the staff report.

Background:

- The City of Derby has two opportunities to affect the visual impact of the community and further the goals of the Comprehensive Plan. The South K-15 Corridor has minimal landscaping in the form of a row of trees. All of the pine trees located along the East side of K-15 are dying and will have to be removed in 2008. New landscaping options are necessary to deal with neighborhood noise issues and to improve the visual impression to drivers entering the South entrance of the city.
- The second opportunity is in the form of a new roundabout that is to be constructed at the North end of High Park. This roundabout connects High Park Drive to Meadowlark Boulevard (via Spring Ridge Drive) and will connect to James Street as development continues. With these infrastructure connections, it is evident that this roundabout will become the main entrance to High Park. We have the opportunity to make a visual impact on the streetscape and provide a pleasing entrance to our community's primary outdoor recreation facility.
- A Request for Proposals (RFP) sent to 22 architectural and engineering firms. The scope of services included providing two design concepts per location for review and then construction documents for the selected concept and assistance in contractor bidding.
- Five proposals were received and scored on approach, schedule, experience, key personnel and fee range. Two teams were selected for interviews: Law Kingdom and Cathcart

Architects. After interviews and discussion the Selection Team recommends Cathcart Architects.

Financial Considerations:

- The design contract with Cathcart Architects is for \$13,750.

Legal Considerations:

- Legal requirements governing solicitation and acceptance of proposals have been satisfied.

Policy Considerations:

- The Department followed the City's purchasing policy.

MOTION: Warren moved to approve the Committee's selection of Cathcart Architects and authorize the City Manager to negotiate and execute a contract with Cathcart Architects for design services. Arnold seconded.

DISCUSSION:

Council Member Meidinger expressed a concern about the round-a-bout in High Park. He thinks we are making a mistake by directing heavy traffic through a park. As was mentioned, the south entrance into the park is rather narrow and if we are going to funnel traffic through the park long term we are going to be looking for trouble. There are going to be speeders going through there. Most of the parks that he has been associated with dead end into a parking lot. He has no objections to having a north entrance but he thinks that entrance should dead end into a parking lot and not create a raceway through High Park because that is what it is going to end up being. He pointed out this has happened in Derby already at Hand Park. The parks department at one time put up cables because the traffic through that park was too fast, and that is just a small park. Here we are tying in a major subdivision going to Madison and he thinks we are creating a problem. He would like to see us alter that north entrance and dead end it into a parking lot.

Ms. Sexton advised this issue has been addressed before and certainly there is some risk of exposure there of different types of traffic. There is also a pretty good argument that can be made that this will actually reduce the traffic to some extent because right now people are going down Madison and going through the entire park. The vast majority of people that go there are for the ball fields and the big parking lots. By the time you get through the entire park to the parking lots you have run a lot of traffic through there and a lot of cars going in and out. This way, they will be able to take James Street, which is already a wider street than Madison is and you can go through the round-a-bout and park directly in those lots or drop your kids off for ball games. Many evenings and weekends you will have less traffic going through the park. She does not say that to argue Mr. Meidinger's point, it is still a very good point that you might have a raceway. We have talked about that before in terms of a policing standpoint and speed bump standpoint if that type of thing occurs. If you go to Meadowlark and up through the Spring Ridge Addition, there is not going to be a whole lot of traffic going through the park unless they are going to the park. It is a very winding type of street with a very low speed limit. As long as we are enforcing things well and not letting it be a raceway we will have a good experience with the street.

Council Member Meidinger pointed out that if the plan follows through with a school out there it will create much more traffic. If a school is put there would they have a direct entrance off of James?

Ms. Sexton advised that is the plan.

Mayor Avello stated he goes through Riverside Park about three times a week and they have a round-a-bout there. There are a lot of cars that go through that park and they are not traveling that fast. The round-a-bout off of Waco has a pretty tight turn radius which slows people way down. He doesn't know what kind of radius we are going to have here, but you are talking about coming off that, down into the park?

Council Member Meidinger advised what he is talking about is the vast number of cars that will go through there. There are two different types of parks, Riverside Park is basically a passive park, you don't have children, ball players, soccer players, etc. This park is the major park for children. We have invited children out there and then you are going to make that a raceway. You have to slow down for the round-a-bout and you make it up on the curves. From all the experience he has had in parks, it just doesn't work this way in an active park like this.

Council Member Bannon pointed out that if the pine trees aren't cut down by about May they tend to infect other pines, she hopes that we are planning on getting those all down and out of there before that happens. Since we are along KDOT, is there any possibility they might help pay for part of this, via grants or anything else available?

Ms. Sexton stated we would check on that. KDOT is pretty good to us in terms of grants for various parks and bike paths and certainly if they are available we will see if we can get them.

Council Member Warren indicated he has, over the years shared many of Mr. Meidinger's concerns about the park and the traffic through there, but he does think it is something that is manageable. He doesn't know if this was designed into the park, but the parking lots are on the same side as the activities, if you are working the soccer fields or the practice ball fields you have parking lots along that area. If you are going to the playground at the north end of the park there is a parking lot in that area. If you are going to the nice little league ball fields there is a parking lot right there. There is going to be very little situation where you are going to have children crossing the main road that runs through the park and he doesn't see that as being a real issue. He does suspect that we will have to put in some speed bumps in that area. He pointed out that speed bumps are very effective in the high school parking lot.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**PURCHASE CRUSHER
ATTACHMENT TO
EXCAVATOR FOR
STREET DIVISION**

Kathy Sexton, City Manager presented the staff report.

Background:

- The Street Division of Public Works is working to recycle a majority of its pavement maintenance waste. Screening efforts have improved our use of waste products such as Asphalt Millings.
- The Street Division is prepared to recycle and re-use construction waste products such as asphalt chunks and concrete debris. To do this we must crush the material to a uniform and useable size. Currently all pavement waste is stockpiled or hauled to the landfill as waste.
- The Crusher Attachment is designed to be attached to our existing Excavator. It will provide the mechanical ability to recycle existing waste material into a useable product, potentially saving up to 50% of base material and bulk purchase costs per year.
- This is an approved item identified in the 2008 Budget and Equipment Purchase and Replacement Plan.
- Sealed competitive bids were received and opened on January 2, 2008. Three vendors were sent requests for bids. One Bid was received from Giberson Enterprises in the amount of \$50,900. This bid meets all specs.
- The Bid Board reviewed all documents and approved the bid from Giberson Enterprises on January 31, 2008.

Financial Considerations:

- The City estimated the cost of the equipment to be \$56,200. Actual bid received from Giberson Enterprises is \$50,900. Equipment is \$5,300 below budget.

Legal Considerations:

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

Policy Considerations:

- The Department followed all bid and purchase guidelines as required by the City of Derby Purchasing Policy.

MOTION: Schwarz moved to approve the Equipment Bid from Giberson Enterprises in the amount of \$50,900 for the purchase of a 2008 Jaw Crusher Attachment. Craig seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

**CONTRACT FOR
ANDERSON FARM
COMMERCIAL 2ND
ADDITION – ACCEL/
DECEL LANE
IMPROVEMENTS**

Dan Squires, City Engineer presented the staff report.

Background:

- A bid opening for the construction of accel/decel lane improvements to serve Anderson Farm Commercial 2nd Addition, was conducted on Tuesday, February 5, 2008.
- 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:

Kansas Paving	\$257,879.50
APAC-Kansas, Inc.	\$238,574.00
Lafarge North America	\$186,895.50
Cornejo & Sons, Inc.	\$152,178.50
Engineer’s Estimate*	\$145,543.00

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

- The low bid of Cornejo & Sons, Inc., exceeds the engineer’s estimate and would result in project costs exceeding the cost allowed by the approved resolution.
- Instead of delaying construction to create a revised resolution and gain approval of said resolution, staff negotiated with Cornejo and Sons, Inc. to deduct the driveway and sidewalk paving from the project reducing their bid by \$25,299.30.

Original Bid	\$152,178.30
Negotiated Deduction	<u>\$-25,299.30</u>
Proposed Contract	\$126,879.00

- The negotiated deduction reduces the overall project cost to a level authorized in the approved resolution. The sidewalks and driveways will be constructed by the developer as part of its site work already underway for the project.

Financial Considerations:

- Funds for the construction work will be included in temporary note issue no. 2008-1.
- Costs for the accel/decel lane improvements will be paid 100% by the benefit district and none by the City-at-large. Special assessments will be spread against the benefit district properties over a 15-year period.

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:

- Cornejo & Sons, Inc. has satisfactorily completed several projects in Derby and has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents.
- Negotiation of a reduction in the scope of the project and a reduction in its costs protects the City and the owners of affected property without requiring rebidding of the work.

MOTION: Schwarz moved to authorize execution of a contract with Cornejo & Sons, Inc. in the amount of \$126,879 for construction of accel/decel lane improvements to serve Anderson Farm Commercial 2nd Addition. Arnold seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

CONSENT AGENDA

Kathy Sexton, City Manager presented the staff report.

Amendment to Library Architect Contract – Furniture

Background:

- The original contract with GossenLivingston for the Library did not include inventory, specification and design documents to bid furniture. Staff was to complete these functions.
- As building design has progressed it is apparent that coordinating the many varied pieces of furniture is more complex than meets the eye.
- To create a cohesive collection of furniture, maximize use of existing furniture deemed suitable for moving, and to select vendors/models that will stand the test of time so pieces may be added in the future, the Library Steering Committee has recommended contracting with GossenLivingston for this service.
- The architects will review current furniture, create an inventory for new furniture selections, provide alternate selections for price comparison, prepare bid documents, review furniture during installation for design intent, and coordinate any returns of damaged furniture.

Financial Considerations:

- Cost for this service is \$21,607 and would come from the contingency line or other savings that may occur through this process.

Legal Considerations:

- The Council may amend professional agreements when the need arises.

Policy Considerations:

- This action would simply add to the professional services provided by the architect for construction of the Library.

Annual Revision of Derby City Code

Background:

- Pursuant to an ordinance adopted by the Council October 9, 2007, staff contracted with Lexis-Nexis to prepare a comprehensive supplement updating the Derby Municipal Code.
- Passage of the proposed ordinance is necessary to adopt the new code; adoption does not change the substance of ordinances already in force.
- The city code is available on the City's website and is used by stakeholders of the city, so it is important to keep it current.

Financial Considerations:

- There should be no financial impact resulting from adoption of this ordinance.

Legal Considerations:

- The City's code should be kept current to provide easy access to all ordinances.
- Adoption of the new code repeals all ordinances of general application unless they are included in the code itself, or otherwise excerpted from repeal.
- Charter ordinances are unaffected by adoption of the new code.

Policy Considerations:

- The new city code will be easier to access and use, for both staff and the public.

ORDINANCE NO. 1925

AN ORDINANCE PROVIDING FOR RECODIFICATION OF THE DERBY MUNICIPAL CODE; PROVIDING GENERALLY FOR THE REPEAL OF CERTAIN OTHER ORDINANCES OF THE CITY NOT INCLUDED IN SUCH CODE; EXCEPTING SPECIAL AND CERTAIN GENERAL ORDINANCES OF THE CITY FROM REPEAL; SAVING RIGHTS, DUTIES, FORFEITURES AND PENALTIES; AND PROVIDING RULES FOR CONSTRUCTION THEREOF.

Streets Division Crack Seal Machine Purchase

Background:

- The Streets Division is trading in a 1995 Crafcro Crack Seal Machine, a 1999 Poly Patch Machine and a 2000 EZ Liner Paint Machine. This equipment is designated as inoperable and or obsolete.
- The replacement equipment is a 2008, 125 gallon capacity Crack Seal Machine.
- This is an approved replacement identified in the 2008 Equipment Purchase and Replacement Plan.
- 3 vendors were sent requests for bids.
- Sealed competitive bids were received and opened on January 2, 2008.
- One bid was received from PMSI – Paving Maintenance Supply Inc. in the amount of \$26,451.
- This bid meets all specs and is under the estimated budget cost of \$30,000.
- The Bid Board reviewed all documents and approved the bid from PMSI – Paving Maintenance Supply Inc. on January 31, 2008.

Financial Considerations:

- The City estimated the cost of the equipment to be \$30,000.
- Actual bid received from PMSI – Paving Maintenance Supply Inc. is \$26,451.
- Equipment is \$3,549 below budget.
- This is an approved purchase identified in the 2008 Equipment Purchase and Replacement Plan.

Legal Considerations:

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

Policy Considerations:

- The Department followed all bid and purchase guidelines as required by the City of Derby Purchasing Policy.

Street Division Truck Purchase

Background:

- The Streets Division is trading in a 1988, ¾ ton, 4x4 pickup truck with 112,414 miles.
- The replacement vehicle will be a 2008, ¾ ton, 2wd, regular cab pickup truck with 8' utility bed.
- This is an approved replacement identified in the 2008 Vehicle Replacement Plan.
- 12 vendors were sent requests for bids.

- Sealed competitive bids were received and opened on January 2, 2008.
- Bids were received from Pfaff Chevrolet in the amount of \$21,528.65 and Rusty Eck Ford in the amount of \$18,711. Both bids met the conditions of the specs.
- Both bids are under the estimated budget cost of \$24,000.
- The Bid Board reviewed all documents and approved the low bid from Rusty Eck Ford on January 31, 2008.

Financial Considerations:

- The City estimated the cost of the vehicle to be \$24,000.
- Actual lowest bid received from Rusty Eck Ford is \$18,711.
- Vehicle is \$5,289 below budget.
- This is an approved purchase identified in the 2008 Vehicle Replacement Plan.

Legal Considerations:

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

Policy Considerations:

- The Department followed all bid and purchase guidelines as required by the City of Derby Purchasing Policy.

Parks Division Truck Purchase

Background:

- The Parks Division is trading in a 1990, ½ ton pickup truck with 88,114 miles.
- The replacement vehicle will be a 2008, ¾ ton diesel, 2wd, regular cab pickup truck.
- This is an approved replacement identified in the 2008 Vehicle Replacement Plan.
- 12 vendors were sent requests for bids.
- Sealed competitive bids were received and opened on January 2, 2008.
- Bids were received from Pfaff Chevrolet in the amount of \$23,577.45 and Rusty Eck Ford in the amount of \$20,393. Both bids met the conditions of the specs.
- Both bids are under the estimated budget cost of \$24,000.
- The Bid Board reviewed all documents and approved the low bid from Rusty Eck Ford on January 31, 2008.

Financial Considerations:

- The City estimated the cost of the vehicle to be \$24,000.
- Actual lowest bid received from Rusty Eck Ford is \$20,393.
- Vehicle is \$3,607 below budget.
- This is an approved purchase identified in the 2008 Vehicle Replacement Plan.

Legal Considerations:

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

Policy Considerations:

- The Department followed all bid and purchase guidelines as required by the City of Derby Purchasing Policy.

DISCUSSION:

Mayor Avello asked if the ordinance included in the consent agenda needed to be pulled out before voting since it requires a voice vote.

Mr. Alexander advised that is not necessary, it only needs to be recorded appropriately that the council did vote yea or nay. Otherwise, it can be done as part of the consent agenda.

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

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

EXECUTIVE SESSION

MOTION: Schwarz moved to recess to executive session for a period of 15 minutes to discuss matters privileged by the attorney/client relationship, after a 10 minute break. Warren seconded.

VOTE: Craig yea, Meidinger yea, Nun yea, Warren yea Schwarz yea, Bannon yea, Staats yea, Arnold yea, 8 yea, 0 nay, 0 absent, motion carried.

The council returned at 9:10 p.m. and Mr. Schwarz stated that no binding action had been taken.

ADJOURNMENT

Meeting adjourned at 9:10 p.m.

Dion P. Avello, Mayor

ATTEST:

Jean Epperson, City Clerk