

**APPROVED MINUTES
REGULAR COUNCIL MEETING
February 9, 2010
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Meidinger, Jim Craig
Vaughn Nun, Heath Horyna
Chuck Warren, Cheryl Bannon
Tom Haynes

COUNCIL MEMBERS ABSENT:

WARD IV

Mark Staats

Flag salute was led by Council Member Bannon. The invocation was led by Council Member Craig.

CONSIDERATION OF MINUTES

Minutes of the January 26, 2010, Regular Council Meeting.

MOTION: Haynes moved to approve. Horyna seconded.

VOTE: Motion carried 6-0, Warren and Staats absent.

PUBLIC FORUM:

Council Member Bannon announced that there will be an art show kick-off on February 18 from 5:00 to 6:30 p.m. at the Derby Public Library called *Discovering Artists* and is artwork created by kindergarten through fifth grade students. It's very enjoyable to see what they can create. We have approximately 180 pieces on display. The show will be up through March.

Council Member Horyna thanked everyone who stopped by our booth at the Home Show. A special thanks to those who staffed the booth and put it together.

Council Member Haynes stated they had a drawing to give away a tree at the Home Show, with approximately \$500 worth of gift cards. Pam Cornejo from Wellington was the winner; she was very excited about it. She commented that she doesn't live in Derby but shops in Derby all the time.

Mayor Avello advised they will have an executive session this evening that will come after Item E on the agenda. He also advised he received a note with some good suggestions but he requested that if people send letters they please sign it so we can enter into a conversation. He asked Mr. Mendoza to look at Timber Ridge Street in front of Mr. Haynes' house. The street is falling apart and has some holes in it. Further down where it turns into Pheasant Run right by the manhole cover also needs to be repaired. Every year since he has been mayor we have lost some people that have built this community. Last week we lost three people, Mr. Wes Gum, Mr.

Samuel Austin and Mr. George Arnold. All three were giants in this city that contributed greatly to the citizens. Mostly quietly, behind closed doors doing things that people don't see.

Kathy Sexton, City Manager, pointed out that any member of the public is free to call Public Works to report street problems. Every year we drive the streets and make a map for our pavement maintenance program. We do not do special things for streets that council members live on. We do have a very aggressive street maintenance program.

Robert Lee, Chief of Police, announced a new program called Citizen Observer. This program will allow us in a very prompt manner to share crime information with the citizens of this community. It allows us to share information on crimes that have just occurred, significant crimes, crime trend information, crime prevention information, lost or missing children, anything that requires a timely dissemination of getting that information out, we will be able to do so with this program. We ask for citizens to sign up for this program and you will receive an alert sent to your email or your cell phone as a text message notifying you of the crime, assistance we are needing, descriptions, things of that nature. People who have information to provide us in regards to that crime can respond back to the message and it will be sent to us anonymously from that sender. It's very important for this program to be successful that we really stress the sign-up phase of this and get as many citizens as we possibly can. The more that sign up the more effective it is. Sign-up is simple and takes about 3-4 minutes. Go to www.derbyweb.com, under departments click on police, and there is a link to Citizen Observer on the front page of the police webpage. It's a very short process to sign up and you will be able to start receiving those notifications. We have also modified that just a bit to where you can receive notifications based on homeowners associations and you can acknowledge which HOA you live in. If there is something very specific to that HOA we can send that information as well. Our goal is enhanced education and increased awareness. It is another tool for us to use to better partner with the citizens of this community, to make Derby a safe and secure community.

Council Member Craig commended Chief Lee on enacting this program so quickly. One good thing about this, it is another step towards community policing and gives the community a chance to interact and know what's going on. It's not quite the total reverse 911 type situation but we are moving in that direction to be able to use the technology to be able to get the word out in a timely basis instead of seeing it on the news.

Council Member Meidinger asked if this is a tool you would want to use for code violations also or is it an emergency program.

Chief Lee advised this is a program we hope to use fairly infrequently because we want citizens to know it is something really significant that has been sent out by the police department. He does not want them ever to become commonplace or something they ignore, so for that very reason we will try to keep it to a minimum in the number of alerts we send out. Everything the staff considers important that we need the citizens' help on, we will be sending it out quickly.

Council Member Meidinger asked if this was tied into Sedgwick County and the Wichita Police Department.

Chief Lee explained there are four cities in Kansas that have this: Wichita, Dodge City, Garden City and now Derby. This is a nationwide program; there are dozens, if not hundreds of police departments across the United States that utilize this program.

PRESENTATIONS:

RECYCLING/TRASH UPDATE

Kathy Sexton, City Manager, introduced Jim Spencer with Waste Connections. He was asked to provide the council with an update now that we have had the program for two months.

Jim Spencer, Waste Connections, indicated we started the trash franchise December 1st. The process took many months. The month of November was a very busy month in delivering both trash and recycle carts and having many citizens realize the first week of December that they had not signed up for service and having to have their trash set up at the last minute. It wasn't necessarily unexpected but did create some interesting challenges. We did make several attempts to contact all of the Derby residents through mailings and Channel 7 to get everyone signed up for service before the middle of November so we could get carts delivered. We had approximately 90% of the residents respond after several attempts by mail or telephone, leaving about 10% of residents who had not signed up for service yet to eventually call and get signed up. We are still receiving maybe 1-2 a week now still signing up for trash service. Everything is up and running. Derby now has automated residential trash collection service, which means the cart is picked up with an automated arm rather than being manually picked up and you have every other week, single-stream recycling in place. Right now we have 4,959 customers that are on a 95 gallon trash cart program. 1,822 people opted to take the cheaper option, which is the 65 gallon cart option, for a total trash customer count of 6,781 people who signed up for service at this time. Out of that, 5,744 people have chosen to have a recycle cart, where prior to this the number was less than 100. A dramatic change in behavior has happened relatively quickly. Volume-wise, during the month of December we collected 453 tons of trash in the community, as well as 173 tons of recyclable material through the recycle program, for a total of 623 tons of trash, 173 tons being recyclable. Your diversion rate of 38% for December is extremely good for the first month of a program. He was surprised it was as high as it was. Moving into January of 2010, 408 tons of trash was collected, 160 tons of the total was recycled, for a total of 568 tons being removed in January. Thirty-nine percent of the solid waste was diverted as recycled material, a slight increase over December. He expects that number to continue to climb. For the last six weeks the bad weather has had quite an impact on set-out rates for people. A lot of people, when their driveway is covered in snow, don't want to drag their trash or recycle cart out so that will have quite an impact. When we see it warm up in March and April we will see these numbers climb, both trash and recycle numbers will probably climb as we go forward. On the recycle side, 84% of participants set out their recycle container at least once a month in December. That is a very high number, especially for the first month. Of the 5,700 people that have a recycle cart, so far 58%, or 3,265 have signed up with the Recyclebank program. That means they have actually activated their RecycleBank account by going online or calling the 800 number. That means 42% have not activated their account yet. One of the pushes we have right now is to get that number into the 90% range of people that are actively on the RecycleBank program. Out of the 58% that is recycling, there have been well over 1,000 redemptions in both

December and January of turning their points into coupons or gift cards, which is a substantial number for the startup of the program, especially considering only half the people are involved in the program at this time. It's an education process to get people to understand that they need to sign up for the program. We have sent them mailers and will continue to do so to educate them on what they need to do. We will try some incentives coming up soon, giving them bonus points in the RecycleBank program if they sign up. There are various ways we will continue to get people enrolled in the RecycleBank program. The January numbers are better than December but they are not out until next week. The interesting thing we are seeing every day through emails and phone calls from Derby residents, now that they have been recycling for a couple of months, asking where their rewards are. It hasn't occurred to them that they need to go online and activate their RecycleBank account. That is what we are aggressively trying to communicate to the citizens to get everyone on board with the program. The 333 tons that Derby has recycled in the first two months saved 3,330 trees, 222,000 gallons of oil and almost 1.4 million gallons of water by diverting these 333 tons of material and reusing them instead of putting them in a landfill - a tremendous benefit to society and the environment on what has only been two months of the program. The start is fantastic and the numbers will continue to grow as we move forward with people understanding the program, what all they can recycle and how little trash they have left over. He introduced Herschel West, Sales Manager, and Tiffany Rau, Customer Service Manager. They have been extremely busy in dealing with Derby residents and staff to ensure issues were handled in a timely manner and have done a fantastic job in handling what needed to be done to get this start-up going in the right direction and solving the little problems that happened as we went along.

Council Member Meidinger stated that simply getting three other trucks off the streets is quite a bit of savings not only on the environment but the wear and tear on our streets. If these people haven't signed up, are their points still available?

Mr. Spencer explained their points are on their account; their account is sitting there in an inactivated state. The points won't expire, they just keep building. Once they go online and activate they can cash those points in. They haven't lost any points by not signing up; they just continue to grow over time. Hopefully we get people to activate and redeem those coupons, which in turn will help the economy. Out of the redemptions, 37% of those redemption coupons have stayed in the City of Derby. That continues to grow as we sign up more and more partners. He had the opportunity to speak at a Chamber breakfast and got several more local businesses interested in becoming partners in the program. That will continue to grow and will generate more revenue in the economy right here in Derby.

Council Member Haynes encouraged Derby businesses to get more involved in the rewards program to keep it in the city. He has had the opportunity to deal with RecycleBank once and Waste Connections twice. He was very pleased with the outcome each time. Customer service was one of his concerns from the beginning. He appreciates that and knows the citizens of Derby appreciate that. It was an easy transition but it was a hard transition and we appreciate that. He had someone ask if you can get an extra recycle container. The answer is yes, if you want an extra recycle container it costs \$3.75 a month. He has had people tell him they didn't believe in it at first but now they are overflowing and fill their recycle container in a week, week and a half.

Council Member Warren arrived at 7:00 p.m.

Council Member Bannon asked if you can recycle plastic bags.

Mr. Spencer advised plastic bags are recyclable. Can you put it in your recycle trash cart? We do not want them. We don't want plastic bags in the program. The reason why is because all of this material runs through a series of conveyor belts on the sorting line. Part of that involves what is called a star screen. It's about a 20-foot long by 6-foot wide conveyor, instead of being a belt it is rubber stars. Those plastic bags wrap around the axles of those rubber stars and it's a huge maintenance nightmare on that machine to pull those out. The bags are recyclable; you can take them to Wal-Mart right inside the front door or at Dillon's. They can keep them separated, they bale them and they get it recycled that way. It's not that we won't take them but we try to discourage them because they create a maintenance nightmare for the processing center.

Council Member Bannon stated if you are not signed up with RecycleBank, you are missing out. Between bonus points and just what we recycle, she and her husband have already redeemed more coupons in a month that they have used in Derby at local businesses; it more than covers the cost of their trash per month. Get signed up for your redemption points. She too would like to see more local companies. We have a good start but could use a lot more.

Council Member Craig asked about the purity of the recycle stuff coming through as far as Derby goes. Are we doing a good job of putting the right stuff in the recycle bin?

Mr. Spencer advised that pre-Derby we were running 9-10% contamination. Post-Derby, for two months, the number has not changed. That's a good sign; the volume of customers did not change the contamination rate. When he says contamination, a lot of things can be rejected that people think are recyclable. We say we take 1-7 and we do take 1-7, but you can find a plastic rocking horse that has a 6 on it but we really can't handle that. What we handle is plastics 1-7, predominantly that are food containers or contain liquids. When you get into lawn furniture made out of plastic, toys that are made out of plastic, that ends up being a contaminated product.

Council Member Craig stated that the rewards program averages about \$2.00 for each \$10.00 spent, that's what most of the coupons are. The other thing is, businesses around town are rewarded very highly for us taking those shopping bags back. When they pack them up and compact them down they weigh tons. Their company rewards them greatly for recycling those, it benefits everybody.

WAMPO PRESENTATION

Dan Squires, City Engineer, indicated that as a result of the 2000 Census, Derby became part of the Wichita Metropolitan Statistical Area. That has different impacts on the city; one of the most significant has been our involvement from a transportation planning standpoint with the Wichita Area Metropolitan Planning Organization (WAMPO). We have been afforded the opportunity to participate in several studies and plans to be involved with the technical advisory committee to the MPO. One of the more significant plans we are involved with, and have been for some time,

now is the Metropolitan Transportation Plan, which is a long range plan that looks at regional transportation dollars. We are very fortunate tonight to have Kimberly Spielman from WAMPO here to talk about that plan and how it might affect Derby.

Kimberly Spielman, WAMPO, updated the council on the Metropolitan Transportation Plan 2035. WAMPO is the regional transportation planning agency. The region is all of Sedgwick County, extending east into Butler County including Andover, south into Sumner County, including all of Mulvane. Essentially, their job is to coordinate with cities, counties and other agencies and ensure that federal transportation funds can be spent on regionally significant transportation projects. One of those requirements is producing a long range transportation plan. Presently we are working on the Metropolitan Transportation Plan 2035. It is a long range transportation plan, looking out into the next 25 years, what the region's transportation system is going to look like and what we will need in the next 25 years. Although it is a long range plan we do update it every five years. A lot of that is to account for changes in federal legislation. Early on in the process we formed a project advisory committee. There is a broad representation throughout the region, including Derby, of people that sit on that project advisory committee and help guide the process. The plan has been separated into four different phases; each phase contains some type of public outreach. The first phase was spending strategies and looking at where we are presently in the region. In the second phase, a vision, objectives and strategies were created for the plan to help provide overall guidance on where we are going. The third phase is the phase we are presently in, and that's project selection. In the last phase a complete draft of the plan will be available for review and comment and that should happen sometime in the spring. We are now in the process of selecting projects for the Metropolitan Transportation Plan 2035. We conducted a call for projects and received over 300 projects from the jurisdictions within our regions. These are a variety of different types of transportation projects, from bicycle and pedestrian to road and bridge. Unfortunately we are now faced with the challenge that most cities are, balancing the budget. The cost of all the projects that were submitted is far more than what we anticipate having available funding to spend on the transportation projects, so we are not in the process of trying to balance that. We are creating a package of projects that will be on an eligible for funding list. The other projects that do not get included in this selected package of projects will be included in a separate list. All of the projects that have been submitted for the plan will be in the plan in some form, it's just a matter of whether or not they are eligible for federal funding. The question is how do we decide which projects are going to be included in those packages of projects? First off, every single project that was submitted was scored by the project advisory committee based on our four short term objectives. Those included how well the project could improve safety, how well the project provided the greatest benefit to the region, how well the project may reduce air pollution and how well the project could increase opportunities for getting around or improve access. Other decision factors will be coming into play as the final selection of projects is chosen. Those include local knowledge, quality of service, economic development, livability and issues like that. At this point there have been four packages of projects that are what we call scenarios that have been created by the project advisory committee. The Initial Scenario projects were based primarily on the scores mentioned. Included in that initial scenario are several of the south area parkway projects, including several projects along 95th street south. The initial scenario was analyzed by our project demand model. Based off of that the project advisory committee created three alternative scenarios, looking at what happens to the transportation system if we remove or

add certain projects. The three alternative scenarios that have been created are Fix the Problems, which added a couple of projects and removed one project; Operation and Maintenance, which removed several projects including the south area parkway projects to increase the amount of funding that could be used for operating and maintaining the system instead of building new projects and added a free transit operation; and Mega Projects, which focused mainly on large scale, expensive projects for the region. Significant changes are expected to happen to the transit system, and those are included in all four project scenarios that were just mentioned. Presently the project advisory committee is moving full steam ahead trying to pick out the best selection of projects to include in the eligible-for-funding list. We would like council's input as well as Derby residents' input on which scenario they feel is best for the region. We have a survey that is available online at www.wampoks.org. Included online is the map of the initial list of projects as well as the complete list if you want more information.

Council Member Bannon asked if we want to pick the package that would include construction of the bridge at 95th Street, which package would that be?

Ms. Spielman indicated it would be the Fix the Problems and the Initial Scenario.

Council Member Bannon asked if there was any way we could put an explanation about how important that project is to our area with links to WAMPO. This is an important opportunity for us to provide a lot of feedback. Having this bridge and the roadways down there is a major thing that we need to get on the books. It is somewhere in this 35 year plan, but the sooner the better.

Ms. Sexton clarified that there are four scenarios and asked if the 95th Street Bridge and the parkway enhancements are included in three of them.

Ms. Spielman advised they are included in the Initial Scenario and the Fix the Problem Scenario.

Ms. Sexton stated that there is a survey online that you want people to take to give input giving four options for these four different packages. Do only scenarios one and two include a river bridge at 95th Street south, which is just south of Derby? The bridge comes first and later enhancements to the street which currently, on our side of the river is paved, one lane each direction. The enhancements would make it a divided two-lane each direction for safety and to ensure that 25 years from now you can still get around without having to stop not only every mile for stop signs, but because of driveways to businesses and homes you won't even be able to go 45 mph on some of our county arterials. What we want to do with this 95th Street project is make sure we preserve a corridor so people can get around east and west. We are having discussions with Mulvane and will meet with Haysville. We will get some more information on our website.

Ms. Spielman advised the survey will come down on February 19th, so they will need to be done prior to that.

Council Member Bannon asked if they were actually numbered 1 & 2 because on the package we have there are no numbers assigned to it.

Ms. Spielman advised they are labeled by their name.

Council Member Bannon clarified that Initial Scenario and Fix the Problems are the only two that would include the 95th Street Bridge and parkway.

Ms. Spielman advised that was correct.

Council Member Bannon stated that we need to keep this in mind to allow for that growth and expansion. Other than 63rd Street you really have to go quite a ways to get across the river. This could be a big thing for us.

Ms. Spielman clarified that the Mega Projects does include the bridge but does not include some of the 95th Street South road projects.

Council Member Bannon again clarified that if we want the additional roadway projects we need initial scenario and fix the problems. If all we wanted was the bridge with nothing else it would just be the mega projects.

Mayor Avello stated that in the past there had been talk about bringing K-96 down towards Mulvane and coming back across. Was that ever brought up?

Ms. Sexton explained that was in the south area transportation study a few years ago which essentially concluded that that was way too expensive. It cost far more than this and we are struggling to get the money for this. Essentially that report stated that a K-96 bypass in the south part of the county would not be a realistic scenario. The northwest bypass that people talk about is something they planned a little bit but they started planning so late that they don't have the money to do that project either. This came up a month or two ago during the Mulvane, Derby and Sedgwick County planning process. The county highway engineer came in and said they had focused so much effort the last few years on 63rd Street. We tried to show them the growth of Derby and the surrounding areas including Haysville. It's important to plan 20 years in advance and not think that we don't need this 95th Street deal now so we don't need to talk about it. You are planning, hoping for federal money 10-20 years from now but if it's not in this plan it won't even be considered for funding.

Mayor Avello indicated it has been discussed trying to get a turnpike exit at 63rd Street. If 95th goes through is that a conceivable project to put in this plan?

Ms. Sexton advised it is not. The turnpike folks were good enough to do a study and they determined they have so many turnpike exits right now. The K-15 exit is maybe not labeled as a Derby exit but we consider that our primary Derby exit. The next one is the Haysville/Derby exit, the Mulvane exit and the Wellington exit. There are so many exits at the south end of the county, they have done some projections and there is no way that's an affordable option. She advised we are still working with the Kansas Turnpike Authority see if we can get them to re-label the K-15 exit and put the word Derby on it. As Derby has grown so much it really is the

logical exit. We know it doesn't exist in Derby but it's the closest one to get you to Derby in most respects.

2010 TREE LIST & PLANTING GUIDE

Robert Mendoza, Director of Public Works, introduced Jennifer Brown and Dr. Jason Griffin from the Parks and Urban Forestry Board.

Ms. Brown explained the planting guide will be available at city hall, the Wichita Garden Show, the City of Derby Arbor Day Celebration and the 2010 Derby Garden Tours. We will also have the document on www.derbyweb.com.

Dr. Griffin went over the brochure with the council. There are ten recommended trees as well as steps for the homeowner to follow while planting. They have also provided contact information if residents have any questions.

Mr. Mendoza indicated that this brochure is just a sampling of what is readily available in our area and would work well in your landscaping. If you want additional information on trees not listed you can go to www.kansasforest.org.

Background:

- The Park and Urban Forestry Board is tasked by ordinance to create and recommend a tree list to help residents of Derby understand the benefits of properly using trees in their landscape.
- The provided list is not designed to be all-encompassing, but is a general guideline of appropriate species.
- The Tree List and Planting Guide provides a common list of trees and planting guidance, with contact information for agencies which can provide further assistance.
- The brochure will be available to the public for pick up at City Hall, the Wichita Garden Show, the City of Derby's Arbor Day Celebration, and the 2010 Derby Garden Tours.
- The document will be posted on www.derbyweb.com for public access and downloading.

Financial/Sustainability Considerations:

- Printing costs associated with the brochure are estimated at \$300.

Legal Considerations:

- In recommending tree species for planting in public spaces, the board is acting pursuant to City ordinance.

Policy Considerations:

- It is the policy of the City of Derby to support our urban forestry through community education. This is a responsibility of our membership in the Tree City USA program through the National Arbor Day Foundation.

DISCUSSION:

Mayor Avello asked if there is anyway to get the fruit from sweet gum trees to not come out.

Dr. Griffin advised there is. It takes treatment by a professional arborist; they can be treated by a plant hormone that will make the flowers fall off.

Council Member Warren asked how many nurseries are within five miles of Derby.

Mr. Mendoza advised there are probably six.

Council Member Warren asked if it would be possible for us to produce a tag that would go on a tree to indicate a tree is on Derby's recommended list so if somebody went out to the local nurseries, those trees on our list would already be marked and would make it easier.

Mr. Mendoza advised he would have to look at the process and logistics of that but we have some very good people on our board. We have been in communication in the past with Lowe's where people are buying local trees in Derby and they order trees using our list to look at for future orders. They are ordering next year's trees already so we are participating that way. We began the process of trying to direct the buying so they have already met the recommended tree list. We can definitely look at that recommendation.

Council Member Craig asked where this will be distributed.

Mr. Mendoza explained it will be distributed locally at all of our events such as Arbor Day and the Garden Tour. It will also be here at city hall and online at www.derbyweb.com. We are not printing thousands of copies to send out but they are available through the internet.

Council Member Craig asked if it would be wise to place them at Lowe's.

Mr. Mendoza advised they could look into that.

Council Member Horyna asked if it's best to know where a tree was originally grown when it is purchased.

Dr. Griffin advised his feeling is yes. We always recommend that individuals interested in buying a locally grown tree visit some of our local family-owned nurseries because they are grown right here in Sedgwick County soil and raised in our environment.

MOTION: Haynes moved to receive and file the recommended 2010 Tree List & Planting Guide. Craig seconded.

VOTE: Motion carried 7-0, Staats absent.

FIRST ACTION ON G.O. BOND SERIES 2010-A – SPECIAL ASSESSMENTS

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

Background:

- Projects financed in Temporary Notes Series 2008-1 and a portion of the projects financed in Series 2009-1 that are complete are now ready for permanent financing to take advantage of the current interest rate environment.
 - The projects consist of infrastructure improvements in the Hamilton Estates Addition, Derby Medical Campus Addition, The Oaks Addition (Storm water sewer Phase XI and sanitary sewer) and Stone Creek Commercial 4th Addition (sanitary sewer and water lines).
- The total project costs to be assessed in the 2010-A Bond issue are approximately \$3.0 million.
 - The debt service on the special assessment portion of this bond issue will be paid via 15-year special assessment payments of the benefited property owners.
 - The first step in the formal process of assigning specific special assessment costs to each parcel benefited by the projects listed above is for the Council to take action to approve the “Statement of Final Costs” and Assessment Roll. The Council would then set a date for the Public Hearing on the assessments and approve a Notice of Public Hearing.
 - The assessment roll is being generated at the time of preparation of the staff report and will be presented to Council during the meeting.
- In order to meet various timeframes prescribed by state law, the Public Hearing is planned to be held during the March 9th regular meeting of the Council.
 - Notice of the Public Hearing will be published in the Derby Informer and mailed to each affected property owner (including proposed assessment amount) at least 10 days prior to the public hearing.
- In addition to the special assessment projects, this bond issue will include financing for the library which was financed with two series of temporary notes.
 - The library is now complete, and the notes will be retired with the proceeds of these bonds.
 - The original repayment schedule of the library bonds was projected over eight years.

Financial/Sustainability Considerations:

- The Statement of Final Costs contains a detailed listing of the construction and related financing costs for each project for permanent financing.

Legal Considerations:

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

Policy Considerations:

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

DISCUSSION:

Council Member Horyna asked if the signs have been posted notifying the residents that specials are being assessed at Hamilton Estates, Derby Medical Campus Addition, The Oaks Addition and Stone Creek Commercial 4th Addition.

Ms. Sexton advised to her knowledge they have.

Council Member Haynes asked about projects 11 and 14, all the other projects mention 100% to be assessed to the improvement district. For projects 11 and 14, approximately 72% is to be aid by the benefit district and 28% to be paid by city at large. Why is the city taking on 28% of that?

Mrs. Epperson explained that it has to do with the oversizing of the lines. We have a development policy resolution that indicates if an oversized line is put in place then the city at large pays for the oversizing.

MOTION: Bannon moved to approve the Statement of Final Costs and the Assessment Roll as presented; establish the date of the Public Hearing to be March 9, 2010; and approve and authorize publication and distribution of the Notice of Public Hearing.

VOTE: Motion carried 7-0, Staats absent.

REPLACEMENT OF BOILERS AT ROCK RIVER RAPIDS

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

Background:

- The Rock River Rapids aquatic park has three boilers to heat the water in all three pools. The shallow pool boiler unit is no longer operational and is un-repairable. The other two boilers are failing.
 - Experience has shown that the burners and heat exchangers last approximately two full swim seasons before they fail due to corrosion. The remaining two boilers have been in service for one and a half seasons.
 - The original units carried a one-year limited warranty, and all repairs to date were made outside of that warranty period. The existing boiler units are now 6 years old.
- Public Works staff, in conjunction with local boiler contractors, have made extensive repairs to the boiler units over the past three years.
 - With the assistance of boiler manufacturers and installation specialists, we have identified the conditions that adversely affect our boiler operations to be primarily the caustic atmosphere caused by the open pits and airborne chemicals, as well as the pipe material used to heat the treated water.
- We created the following goals to reflect the desired performance of the replacement boiler equipment. This list specifically targets the problems and conditions that affect our

current operations. The recommended replacement equipment meets all of the desired goals.

1. Eliminate the caustic atmosphere from the make-up air of the boilers.
 2. Eliminate direct heating of treated water.
 3. Eliminate opportunities for corrosion.
 4. Increase heat efficiency.
 5. Decrease fuel costs.
 6. Prevent condensation within the boiler.
 7. Eliminate copper failures.
 8. Decrease repair costs.
 9. Provide redundancy and connectivity.
 10. Provide an automated system that incorporates better safety and temperature controls.
- The replacement system includes 6 double-loop boilers, 12 heat exchangers, and replacement of the copper piping with CPVC.
 - The replacement boilers are designed to work in tandem and provide automatic redundancy should any problems occur. The six units are connected, so that in the event of a failure, the entire system can be quickly reconfigured to support any of the three pools. This is a significant enhancement over the original design.
 - This equipment replacement will provide long-term dependability with the security of an integrated control and temperature management system.

Financial/Sustainability Considerations:

- The source of funds for the boiler replacement is the aquatic park retail sales tax reserve account.
- These new boilers are expected to generate an immediate savings in operating costs by consuming less fuel and reducing annual repair costs.
- The recommended equipment comes with a six-year full warranty and an additional four-year prorated warranty on the heat exchangers. Given proper maintenance, this equipment should last much longer than the warranty period.

Legal Considerations:

- The contract was reviewed and approved by the city attorney.

Policy Considerations:

- It is our operational policy at Rock River Rapids to maintain water temperature in the pools at 81 degrees. This provides a comfortable setting for patrons, allows us to open to the public earlier in the season, and makes for comfortable swimming on otherwise cooler days. Water temperature has a direct correlation to attendance and revenues.
- The Public Works Department followed the City of Derby Purchasing Policy. Proposals were requested from four boiler contractors, and three responded. Of the three, one company's proposal only met six of the ten stated performance goals. Of the two that met all the goals, the proposal from Ball Heating and Air Conditioning was the lower cost option.

DISCUSSION:

Council Member Warren asked about the venting, do we have any health concerns to our patrons in running that to the outside?

Mr. Mendoza advised it will be vented up above the roof, just like your home and will be higher than any of the air you are breathing. It will be just like your home boiler system in your home furnace and will have no impact whatsoever.

Council Member Bannon clarified that the toxic fumes are from the pool chemicals that are in the same room, they are not from the boiler system correct?

Mr. Mendoza advised that was correct.

Council Member Bannon asked what the chances are that the outside skin will deteriorate on the new boilers.

Mr. Mendoza advised that the difference is the caustic atmosphere, plus the heat, plus the flame is what causes the corrosion. These new boilers are completely different in makeup. They are completely sealed units, stainless steel interiors; you don't have to worry about anything getting in. It is nothing like the old system. If you can imagine steel waffle with a pipe through it, that's basically what the existing boilers are. The copper goes through, connects to steel, the steel is heated by the burners and heats the water. This is nothing like that. It is very different and we are getting rid of the condensation problems, getting rid of air problems, exhaust problems and the recycling of all those problems. We have completely isolated all those problems and the equipment is now designed with different materials to handle the atmosphere that it's sitting in.

Council Member Bannon asked what the life expectancy is of this equipment.

Mr. Mendoza said this is a six-year full warranty for the equipment, plus a pro-rated four years on top of that. That means after six years you will start paying a percentage of the replacement for the next four years. After that, a total of 10-years, it's total replacement on you. The reality of it is these boilers are designed to run 365 days a year, 24 hours a day to maintain water systems, that's what these pieces of equipment are for. When you look at having a 12-week season, how long will this last?

Council Member Bannon pointed out it is almost worse sometimes when you have something shut down longer than it's running.

Mr. Mendoza advised that is the unknown right there. We are shutting it down, cleaning up, sealing up and reopening each year and that takes a toll. Just like starting a car, that brief moment is the worst part of the use. That's the same thing with these boilers. We believe we can probably double or triple that warranty based upon our own equipment. He thinks because of the way we are utilizing it, because it's no longer full on, full off, but a regulated shared labor, we are going to have great longevity.

Council Member Bannon asked if we have room for the additional boilers.

Mr. Mendoza advised we have room to spare. Our current boiler system is roughly the size of the table the city manager is sitting at, only higher. These units are a third of that, each.

Council Member Bannon asked what account this money is coming out of.

Mrs. Epperson advised the technical answer is the reserve account but that is because of the wording in the bond resolution. We actually have two months of sales tax that we will receive. The sales tax sunset on December 31st, but because there is a 60-day lag we will have two months of sales tax which will more than cover this expense.

MOTION: Bannon moved to authorize the City Manager to execute a contract with Ball Heating and Air Conditioning for \$247,000 for replacement of boilers at Rock River Rapids. Horyna seconded.

Council Member Craig asked how much is in those two accounts.

Mrs. Epperson advised the reserve had \$1.5 million at the end of the year. With the sales tax that will come in, \$165,000 is what it's been averaging, so you are looking at about \$330,000 for two months.

Council Member Craig asked if that was spilling over into another account.

Mrs. Epperson advised it was not. By the bond resolution that is required to go into the reserve. What that means is from this point forward you would use the reserve to supplement the operation of the park.

Council Member Craig asked if this was a closed loop system. You abated quite a few of the concerns you had when you made your selection.

Mr. Mendoza advised it is a huge improvement.

VOTE: Motion carried 7-0, Staats absent.

STORM WATER IMPROVEMENTS TO SERVE STONE CREEK COMMERCIAL 3RD AND 4TH ADDITIONS

Kathy Sexton, City Manager, presented the staff report.

Background:

- Stone Creek Commercial 3rd and 4th Additions are located on the north side of Patriot Avenue and west of Buckner Street.
- The City Council approved the Final Plat of Stone Creek Commercial 3rd Addition on November 28, 2006 and the Final Plat of Stone Creek Commercial 4th Addition on September 23, 2008.

- Along with the Final Plats, the Council also approved several petitions submitted by the developer for sanitary sewer, water lines, streets, drainage and sidewalks.
- Portions of those projects have been constructed to serve Lowe's and Kohl's. The lots east of Kohl's are under contract to be purchased by Hunt Properties of Dallas, Texas. Preliminary review by their consultant indicates that additional storm sewer in the area may be needed. Accordingly, the developer has submitted a new petition for this work, and our bond counsel, Gilmore & Bell, has prepared the corresponding resolution for Council consideration.

Financial/Sustainability Considerations:

- The storm water sewer cost estimate is \$211,000. Of that amount, 100% will be paid 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 resolution has been prepared in accordance with Section 12 6a of the Kansas Statutes.

Policy Considerations:

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

RESOLUTION NO. 02-2010

STORM WATER SEWER IMPROVEMENTS/STONE CREEK COMMERCIAL 3RD AND 4TH ADDITIONS.

MOTION: Horyna moved to approve a resolution for storm water sewer improvements to serve Stone Creek Commercial 3rd and 4th Additions. Haynes seconded.

VOTE: Motion carried 7-0, Staats absent.

STATUS REPORT ON SIDEWALK PLAN DEVELOPMENT

Kathy Sexton, City Manager, presented the staff report.

Staff presented the following staff report to the City Council on October 27, 2009:

Background:

- *In August 2008, the Council approved a Capital Improvement Plan that included a Sidewalk Infill Study in 2009. Staff has reviewed previous sidewalk studies and performed field investigations to develop an updated Sidewalk Plan. The purpose of this agenda item is to provide an interim report on the progress of the sidewalk planning study.*
 - *Staff performed a similar study in 1995. Many, but not all, of the 1995 recommendations have been completed. Locations not yet completed have been incorporated into the updated plan.*
 - *While the 1995 plan showed sidewalks on both sides of specific streets, the updated plan only shows a sidewalk on one side due to cost considerations.*
- *The draft sidewalk plan does not include repairs and ramp upgrades needed to meet ADA requirements. These maintenance items were identified in an ADA study last year and are programmed separately by the Public Works Department.*

- *The draft plan shows both existing and programmed bike paths and sidewalks along with a list of additional sidewalks that may be needed. This list includes sidewalks near schools and parks, within new subdivisions, bike paths and sidewalks along arterial roadways, and sidewalks at various other locations.*
- *The draft plan indicates several gaps in sidewalks within newer subdivisions. These gaps will be filled in as new homes are constructed. Homebuilders are responsible for the sidewalk construction.*
- *The numbers assigned to locations in the draft plan are not indicative of their priority or recommended sequencing at this time.*

Financial/Sustainability Considerations:

- *The draft plan separately lists both existing and previously programmed bike paths and sidewalks (under construction; in design; or otherwise included in the existing Capital Improvement Plan). Some have funding already in place, and others are subject to future budgeting decisions.*
- *Section C entitled “Subdivision Reserves and Misc. Gaps” (items 18 through 30) identifies a list of existing sidewalk gaps in specific subdivisions. These gaps are typically located adjacent to reserves or other platted open spaces where homebuilders are not responsible for sidewalk construction. In most of these subdivisions, petitions are on file that could be used to construct those sidewalks at the expense of the benefit districts.*
- *Section F entitled “On Arterials (w/petitions)” identifies sidewalks or bike paths along new commercial development areas. These locations have petitions on file and also would require a city-at-large contribution due to over-sizing needs.*
- *The remaining Sections A, B, D, & E identify lists of gaps that have no funding source identified at this time.*
- *Staff is in process of developing draft cost estimates for all projects listed on the map that don’t already have cost estimates. The next report to the Council is anticipated in January and will include cost estimates.*
- *Besides the cost to design and construct, sidewalk projects in existing neighborhoods are known to be labor-intensive for City staff to coordinate and manage. Depending on how aggressive the Council wants to be with enhancing the sidewalk system, additional staff could be required. Any resource decisions would be fully vetted during the budget process next year.*

Legal Considerations:

- *The Governing Body is authorized to establish or revise policies and practices pertaining to the location of and specifications for sidewalks as well as the funding mechanisms to be used.*

Policy Considerations:

- *Current City policy is described in Section 5 of Resolution No. 37-2009, “Apportionment of Public Improvement Costs,” which provides in part:
“...subject to discretion of the City, costs of public improvements will generally be apportioned between an improvement district and the city-at-large in accordance with the following policies...
b. Sidewalks. Sidewalk improvements, including handicapped-accessible ramps built at intersections, shall be constructed and the cost thereof apportioned in accordance with*

K.S.A. 12-1801 et seq. and applicable ordinances of the City, as the same may from time to time be amended. The cost of all sidewalk improvements shall be paid by the improvement district; provided that with respect to sidewalk improvements located along arterial streets and initiated by resolution of the Governing Body without petition, the cost of a standard sidewalk five (5) feet in width shall be charged against the improvement district and the remainder against the city-at-large.”

- *Using the above policy, the City occasionally is approached by residents who want sidewalks in their neighborhoods. Staff explains to them the funding policy and the petition process, which requires that 51% of the properties affected agree to the assessment.*

Options:

- *If the Council desires a more aggressive implementation of the current policy, some ideas might include:*
 1. *Notification to specific neighborhoods where gaps in the sidewalk system exist to advocate for property owners to discuss their needs and determine their willingness to pay for sidewalks. Then circulate petitions to determine if 51% of property owners are willing to pay. (addresses Sections A-E)*
 2. *Focus on identified gaps in the sidewalk system that have petitions on file. Realizing that executing those petitions will likely generate negative comments from residents who are required to pay for the sidewalks. (addresses Section C)*
 3. *Review all the identified gaps against all known grant programs to determine if any projects would be eligible for partial grant funding and make application for said grants. Property owners would continue to be responsible for the remainder not covered by grants. Given what we know about sidewalk grant programs currently available, very few on the map would be eligible.*
- *If the Council desires a more aggressive policy (instead of just more aggressive implementation of the current policy), some ideas might include:*
 4. *Designate priority projects (for example, Section A “near schools” or Section E “on Arterials”) and amend the policy to provide for a different funding split requiring greater City contribution (i.e., 50% City, 50% property owners or any other funding split the Council deems appropriate). Then circulate petitions to determine willingness to pay.*
 5. *Designate priority projects and amend the policy to provide for 100% city-at-large funding, realizing that some residents will voice negative concerns about trees, landscaping, driveways, etc. regardless of funding. No petitions would be circulated.*
 6. *Review all the identified gaps against all known grant programs to determine if any projects would be eligible for partial grant funding and make application for said grants. Amend the policy requiring property owners to be responsible for the remainder not covered by grants to provide for some or all City funding for that portion not covered by the grant. Given what we know about sidewalk grant programs currently available, very few on the map would be eligible.*

Recommendation:

- *Discuss reactions to the options and give staff any direction deemed appropriate.*
- *Receive and file the report.*

Additional Background:

- During Council discussion on October 27, several Council members expressed the highest priority should be construction of sidewalks around schools. More information about safety in these areas was requested.
- Motor vehicle accident data over the last year indicates a total of 78 accidents occurred within 1 block of the public and parochial elementary schools and 6th Grade Center.
 - Of that amount, 4 accidents involved a pedestrian or bicyclist.
 - In all cases, the pedestrians and bicyclists were in crosswalks.
- City-wide accident data involving a motor vehicle and a pedestrian/bicyclist over the last 5 years indicate the following:

<u>Year</u>	<u>Total Accidents</u>
2005	9
2006	10
2007	7
2008	5
2009	<u>5</u>
	36

- The most common accident (23 cases) involved pedestrians/bicyclists in crosswalks, at stop signs or in signalized intersections.
- Three cases involved pedestrians walking on roadways where no sidewalks are present. (Nelson Drive north of Meadowlark; Williams Street west of Kokomo; and Georgie Street south of Belmont). None of these accidents occurred in the immediate vicinity of a school or during school hours.
- The accident data does not indicate any specific trend or location where sidewalks are needed. Staff agrees with the council that the lack of sidewalks near schools does produce greater potential for accidents.

Financial/Sustainability Considerations:

- Cost estimates have been prepared for each segment of sidewalk listed on the Master Sidewalk Plan. Note: One additional segment (#10 on the south side of James) has been added and several segments have been removed (because they were built) since the October 27th Council meeting.
- Total costs for the various categories listed on the Master Sidewalk plan are as follows:

A. Near Schools	\$504,000
B. Near Parks	586,000
C. Subdivision Reserves & Misc. Gaps	234,900
D. Other	604,000
E. On Arterials (No Petitions)	352,000
F. On Arterials (w/Petitions)	286,500
TOTAL	\$2,567,400

Policy Considerations:

- Under current policy, all sidewalk projects listed in Categories A, B, and D, plus Projects #26 & 27 in Category C will need to be initiated by adjacent property owners via a valid petition, with 100% assessed to those properties. The City has little or no experience with the successful completion of such projects.
- The remaining projects in Category C presently have valid petitions on file with the City and could be activated by the City. Costs would be assessed per the petitions. There are

no city-at-large costs involved. Assessing such projects, even though they are typically low cost, often results in homeowners becoming upset at the City, developer, builders, etc. because they are unaware of the project.

- Category E projects would be 5' in width and under existing policy, if initiated by the Council, would be assessed 100% to the benefit district.
- Category F projects are sidewalk or bike path projects that were created via platting of adjacent properties. On these projects, the City will pay for oversizing, with the benefit district paying for 5' of the width and the City paying for 3' of the 8' wide path. These projects typically are constructed when sufficient development of the adjacent commercial lots occurs.
- If the City Council wishes to pursue construction of those sidewalks near schools, staff recommends that projects be prioritized, included in the CIP and constructed over a multi-year period so that sufficient funding can be allocated.
 - Project #6, on Britain west of St. Mary's School, would be considered a low priority due to the school moving to new facilities on Meadowlark in the near future.
 - Project #9 on Riverview and Park Lane would also be considered a low priority due to low traffic volumes on those streets.
 - Project #10 would also be a low priority and remain such until USD 260 constructs another elementary school at the northwest corner of High Park.
 - The remaining projects have a combined cost of \$262,000.

DISCUSSION:

Council Member Craig stated there is one sidewalk in here that has been an issue for 10 years now. Even though the design is on hold, are we going to at some time reach a decision on Woodlawn from Meadowlark to Tall Tree? The cost has gone up greatly since it was first thought of in 1999. That is one that has been pointed out as a safety issue and feeds into Derby Hills school from the south. How are we going to handle it?

Ms. Sexton advised that the handling of it is with the master sidewalk plan. It is you all telling us what you want to do with it. In this plan it is not numbered. You will see it with the blue dashed line. It is not at this point recommended as one that needs to be done as a priority because it's not one of the ones near schools. What we heard from the council at the last meeting, you didn't take a vote but we heard some of you tell us, we think the priorities are the ones by the schools. That's how this has been mapped out. If you all want that one to be a priority it would have to be added in. As you know, the last estimate was over \$200,000 for that one. As you know, this body approved a bike path about a block over from this sidewalk recently so that one is certainly programmed in for construction later this year. You are also aware that part of the reason for the big cost is because there are some steep slopes and some real ADA issues involved. You have to make sidewalks at levels that wheels can roll across, not so steep that you might as well not even have a sidewalk because folks can't use it.

Council Member Craig indicated we have to come to a decision here; we have to pony up and say we are going to leave it on here. It looks good on paper but it's not included in any of the categories. Either we do something and push it into a category or we eliminate it.

Council Member Bannon asked about the library links, which links the library, schools, main arterials, that will still be in the plan because that's in the 2010 CIP right?

Ms. Sexton advised that was correct.

Council Member Bannon asked about the red ones, arterials with petitions, would those be city paid or are those set up where the petition is on file and in most of these cases they are commercial properties so they would be responsible for paying, is that correct?

Ms. Sexton stated that the petitions are there, but remember our policy is that the property owner pays for 5-feet of sidewalk. If they end up being bike paths, wider than 5-feet, we pay the overage.

Council Member Bannon commented about the pink ones, where they are fill-ins, that would be something low cost to the city and will be on homeowners associations. She suggests we contact those homeowners associations and see if that is something they would like to do. For example, in Timber Leaf, item #21, there is a sidewalk on the other side of the street and #21 goes around part of the pond that's there. That may not be anything that really needs to be done for people to be able to traverse so she doesn't know that we need to spend that expense. The other #21 that's a little further north on a cul-de-sac, you do have a big gap in the sidewalk. It's a lot that happens to be owned by someone that a house was never built on. It needs a sidewalk on it so people can traverse. She thinks the pinks could be done with some due thought and process.

Ms. Sexton agreed. Some of the examples she and Charlie Brown looked at were actually just south of that one, #22. The one on Osage for example, exiting to Rock Road to the bike path is heavily used, there's plenty of room there, its level and would be a great project. But the #22 on Stonegate Circle, if folks want them, they're going to pay for them. We are very willing to have the conversation about whether this one's not really important to them, do they want it and let them decide. They are the ones that have the petitions.

Council Member Bannon stated that we as a city need to indicate which ones we think are important, like the one on Osage. She thinks that would be the first thing she would put out and after that the schools are probably the next most important. Given financial constraints it's going to have to be one every year and add some money in to just plan on it.

Council Member Warren agreed with Mrs. Bannon that we have a number of these that have petitions but if there aren't people walking in those areas, why spend the money?

Ms. Sexton added that the whole idea of having a conversation with the neighbors, like the example, the folks who live on that street as well as the larger homeowners associations to decide, does the homeowners association just want to pay for it. Some of these are really cheap. If you start talking about assessing them over 15 years, you are talking about pennies a month. One of the things that already came off of this, Tiara Pines already did a couple of these and the pink designations came off this map because they themselves asked why there wasn't a sidewalk

there and they paid for it through their homeowners association rather than dinging all the member separately. She doesn't think that the city staff feels like we should force these on people. A lot of the folks in the homeowners associations may not even know what petitions are on file, maybe they were done 10-15 years ago. We would be stronger in suggesting the ones that do empty out and lead you to a bike path or arterial where people clearly walk a lot. Those are the ones the folks in the neighborhood would want.

MOTION: Bannon moved to direct staff to work on the pink items, enter into conversations with homeowners associations to complete those sidewalk pieces that staff deem necessary, to budget yearly to do items near schools, projects 1-5 and 7-8 in category A, as the City's top priority, budgeting money for one project each year. Warren seconded.

Ms. Sexton clarified the motion meant to do the part about the city pays half for the priority school projects and people pay half.

Council Member Bannon agreed.

Ms. Sexton further clarified that Mrs. Bannon is trying to incorporate the recommended motions #1, #2 and #3.

Council Member Bannon advised that was correct.

Council Member Craig asked if the pink areas are just the areas where petitions have been filed.

Council Member Bannon agreed, those are the ones where we are going to talk with them and staff will indicate which ones must be done and others, if they are not necessary then we will allow them to opt out.

Council Member Craig asked if that needs to be in the motion.

Ms. Sexton stated if you want to use the motions that are written, it's right there in the first motion.

Council Member Warren indicated it is his understanding of Mrs. Bannon's motion that we wouldn't do all of them necessarily, we would negotiate and determine priority. If they are low traffic then we are not going to proceed.

Council Member Bannon asked if the city is not paying for those, they are paid by the homeowners, why would we have to wait and just do one per year beginning in 2010?

Ms. Sexton advised it would be due to time constraints. For every one, there will be at least one homeowners association meeting that will have to be set up, including specific invitations to those that live right there at those gap areas. Then, all the estimates that will have to be done and the financial work will have to be done. If you want that done at the same time we are also

working on school priority projects. We aren't going to add any staff, we will also have regular business, annexations, etc., for the same staff.

Council Member Horyna asked if we want to add to the motion to direct staff to present annual progress reports to the council.

Council Member Haynes advised we just don't have staffing to accomplish the projects over the nine-year period. If these already have petitions filed, other than the fact of communicating with the homeowners associations regarding our recommendations, is there any other reason we would need to communicate with them?

Ms. Sexton explained probably the reason they haven't been done all these years is these are city projects. Once they are built they are city owned. We actually are the ones who design the sidewalk, bid the work, inspect the work, oversee the contractor. All the work is on the city and the payment gets done later by the homeowner. There is more work than you think which is exactly why they haven't been done. The staff we have in Community Development are constantly working on the new thing, the guy who's calling today and wanting something done. These have just kind of been overlooked, out-of-sight, out-of-mind type of deal.

Council Member Haynes stated the second part of that would be priorities that we mentioned, 1-5, 7-8 and A, near schools. He has to assume that priorities would be starting first as far as working them.

Ms. Sexton advised the idea of working the gap projects that are already funded, so to speak, and also working the priority projects would be a matter of staff time. This proposes doing one a year of each. The idea of it being a priority is more like you all deciding that this is something you want to spend city money on, in addition to city staff time. That's the piece that she thinks is in the motion, to go ahead put it in the CIP. As we develop the CIP over the next couple of months and bring to you at the Budget/CIP workshop, it will actually include money for specific sidewalk projects. They are the ones around the schools and they are only going to be funded by the City if the neighborhood funds half.

RESTATED MOTION:

Bannon moved to direct staff to proceed with Category C projects that have petitions on file at the pace of one project per year beginning in 2010; designate sidewalks near schools (Projects 1-5 and 7-8 in Category A) as the City's top priority; amend the policy set forth in Resolution #37-2009 to commit the City to paying 50% of the cost of sidewalks determined by the City Council to be a priority, if a successful petition is circulated committing to the remaining 50% of the cost; and direct staff to present progress reports annually to the City Council. Warren seconded.

VOTE:

Motion carried 7-0, Staats absent.

EXECUTIVE SESSION

COUNCIL MINUTES

-23-

02/09/10

MOTION: Bannon moved to adjourn to executive session at 8:20 p.m. following a 10 minute break to discuss acquisition of real estate for the southeast sewer interceptor project, acquisition of other real estate and other matters of attorney/client privilege for a period of 45 minutes, to return at 9:05 p.m. Warren seconded.

VOTE: Motion carried 7-0, Staats absent.

The council returned at 9:15 pm. and Council Member Bannon advised no binding action was taken.

UPDATE CODE OF MEETING PROCEDURE AND GOVERNING BODY MANUAL

Kathy Sexton, City Manager, presented the staff report.

Background:

- Agreeing upon and following a code of meeting procedure is an important component of running an efficient public meeting. Likewise, relying on a Governing Body Manual as an orientation resource for new governing body members and as a reference for incumbent elected leaders ensures consistency of protocol and practice.
- The City Council adopted a Code of Meeting Procedure and a Governing Body Manual in March 2007 and made updates in January, March, and August 2008. City staff has prepared additional updates to both documents to reflect adjustments in Council policy and practice since then. The updates are attached and are summarized as follows:
 - In the Code of Meeting Procedure:
 - On page 3, Section 5 is updated to clarify that Quorum is calculated based on the size of the City Council, not including the Mayor.
 - On page 4, Section 8 is clarified by simply re-ordering the sentences to note that special meetings are generally called by action of the City Council.
 - On page 6, Section 15 is updated to note that staff reports include sustainability information as well as financial and to clarify that staff reports **shall** be objective and unbiased.
 - On page 7, Section 17 is updated to note that Executive Sessions generally occur at the end of Council meetings.
 - On page 7, Section 19 is updated to clarify that the Council determines when the order of business at a Council meeting is to be changed from the published agenda.
 - On page 8, Section 26 includes new language to implement a request by the Council to adopt a policy of introducing ordinances that advance substantially new policy at one Council meeting and taking action on them at another Council meeting, noting that exceptions may be made by majority vote.
 - On page 10, Section 30 notes that the motion to go to executive session should include a reference to the subject to be discussed, and the time and place at which the open meeting will resume.

- On page 12, Section 40 is updated to note the Mayor's role in voting on employment of the City Manager and Municipal Judge.
- On page 14, the section on Ethics includes changes made to the Kansas Open Meetings Act, clarification that information discussed in executive session should be discussed only with those present in the session, and that *ex parte* conversations should be disclosed in an open meeting.
- In the Governing Body Manual:
 - On page 5, the new stipend for City Council members is noted.
 - On page 12, the role of the Council President to succeed to the office of Mayor in the event of a vacancy is noted, as per Charter Ordinance 46.
 - On page 15, the El Paso Water Company Board of Directors is noted to use the Code of Meeting Procedure as adopted for use by the City Governing Body.
 - On pages 18-19, an addition to the list of items eligible for the consent agenda is recommended to include resolutions for infrastructure improvements paid by property owners for which the City Council has already approved petitions and for which no City funding is required.
 - On page 19, clarification is added that the list of topics eligible for discussion in executive session is not exhaustive rather represents the most common topics.
 - On page 20, explanation is provided that cutting off debate requires a motion, second, and majority approval of the Council.
 - On pages 31-32, serial meetings and the requirements of the Kansas Open Meetings Act are further explained.
 - On page 36, the annual budget/CIP workshop is noted as a component of the budget calendar.
 - On page 39, the list of suggested reading material is updated to remove several and add several books.
 - Appendices A and C include several minor updates to definitions of terms and to descriptions of advisory boards and commissions.

Legal Considerations:

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

Policy Considerations:

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

DISCUSSION:

Council Member Haynes clarified page #14, meeting with five council members outside the normal meeting place. We discussed at the last meeting sticking to the stricter rule, he would like to see that and would support that. We in no way want to give the perception we are

meeting outside normal open meetings. On page #12, if the council president takes over for the mayor, would he have to appoint someone to fill his seat? Do we have any guidance on that?

Ms. Sexton clarified Mr. Haynes was asking that if the position of mayor is vacated and the council president moves up to take the mayor position, then would it be possible to appoint someone to fill the council seat so that you would not be holding two seats at once?

Council Member Haynes asked, if at the next election whether it's six months, two months or a year away, if at that time the acting mayor would have to appoint someone for his city council seat, is that correct?

Ms. Sexton indicated if the mayor is in the hospital for six weeks, the council president may just be filling in as an interim, that's not what we are talking about here. We are talking about when the mayor resigns, then you would actually be the mayor so you would not have the council seat anymore, so the mayor and council could appoint someone to fill the seat on the council or you could leave it vacant until the next election. When the election comes up next, if that person who is now the mayor wants to be a council member again instead of the mayor they could run for that seat. If they want to keep being the mayor they could run for the mayor's seat.

Council Member Haynes clarified they would have to run for whatever seat they wanted.

Ms. Sexton explained whenever the mayor's term expires then you would have to run for it the next time.

Council Member Warren (inaudible, microphone not on)

Ms. Sexton stated if that council member succeeds to be the mayor and the council seat is vacant, the council could either hold it open, in which case if that person didn't win the mayoral election they could reappoint that person to the seat. Or, you could fill the seat and if the seat gets filled then there is no appointing to be done.

Council Member Warren (inaudible), microphone off.

Council Member Haynes suggested a book for the suggested reading list called *The Five Dysfunctions of Team Building*. It's an excellent book about leadership, trust and teambuilding. It would be very beneficial for a lot of people to read.

Council Member Bannon pointed out a correction to be made on page 19, changing too to tool.

Council Member Horyna, on page 14 the bolded Council under bullet #1, should that read city council?

Ms. Sexton indicated she could add the word "city" both times council is mentioned in the bullet.

Council Member Craig on page 6, section 16, he has not found the operational definition of “off agenda item”, is that what that is? We use that term loosely, can we define that there?

Ms. Sexton advised she can put that in there.

Council Member Craig put forth a scenario, the mayor resigns tonight, Mr. Staats is not here, therefore we have no mayor. If Mr. Staats is here he would become mayor, so now we have to invite a new person to become president. We have devised a system where by accident or by election that whoever is elected president of the council can be mayor and he would be mayor for in excess of another year. He’s not sure that sets too well with everybody but that’s something to think about. He is up for re-election in 2011, however we could have one who would not be up for reelection in 2011 because it says in the document that that person would be elected at the next city election. You could change the cycle as far as mayor goes.

Ms. Sexton advised it is all specified in the Charter Ordinances. This book is intended to just kind of summarize the most common things. If indeed we had a mayor resign and the advancing of the council president we would certainly look at that Charter Ordinance and remind ourselves, does it say anything different about electing a council president.

Council Member Craig, it does say “in the next city election” so he will now be up for reelection in 2011. We have been in a four year cycle. It could happen that would change.

Ms. Sexton advised it’s different depending on the timing, that’s true.

MOTION: Warren moved to adopt the Code of Meeting Procedure and Governing Body Manual with the recommended changes. Bannon seconded.

Council Member Haynes clarified we are keeping the old 2008 numbers for the amount of council members who can meet together.

Ms. Sexton advised that is the way this document is written, to continue what was decided in 2008; two plus the mayor. There are several options that we could go over but if you want to keep it the same that’s what it is.

VOTE: Motion carried 7-0, Staats absent.

UPDATE COUNCIL PRIORITIES

Kathy Sexton, City Manager, presented the staff report.

Background:

- On Sept. 22, 2009, the Council last updated its priority list.
- Today, an updated priority list is provided for Council consideration.
 - No new projects have been added to the list since September, although a few have been altered slightly.

- Occasionally, Council members mention ideas for additions to the list, and one idea was communicated recently—to begin planning for future space needs for City facilities such as the senior center—and examination of the current list indicates that such planning is already on the list (item #8).
- Three projects were completed since September and removed from the list:
 - Noise ordinance
 - Unilateral annexation
 - Policy for first reading of ordinances
- Work is underway on many of the 17 priorities on the city list, as well as the 3 priorities on the Water Company’s list. A review of each item will be provided during the Council meeting.

Financial/Sustainability Considerations:

- None at this time. Implementation of the priorities will necessarily involve staff time and various expenses that will be determined at a future date and budgeted for as appropriate.

Legal Considerations:

- None.

Policy Considerations:

- It is important for a governing body to agree on a set of priorities to guide the productive use of staff time. The list does not represent everything the Council has directed staff to accomplish, rather it includes enhancement projects and programs to be worked on as time allows amid other routine responsibilities.

DISCUSSION:

Council Member Craig commented on Item #7, he would appreciate it if they would go back and review the signs that say Derby is X number of miles. The one coming off the turnpike at K-15 says 7 miles and it is way wrong. Probably some mileage indicators would help also.

Ms. Sexton advised the engineers say there is a big chunk of Derby on K-15 that is not in the city limits, about a mile, mile and a half not in the city. The KDOT people like to put their mileage markers up to the actual city limits. She will check on that, but she did so a couple of years ago and they said technically it’s correct.

Council Member Haynes commented on Item #8, he is glad to see that added. We as a city council have to be concerned about next year and five years from now but we also have to be concerned about 10-50 years from now. This is a great step towards that. The stand alone senior center is definitely something we need to think about. As Mrs. Bannon was a champion for the library, you can rest assured he will be a champion and voice for a stand alone senior center when that time comes about. It is needed and he’s glad to see that extra verbiage in there because we have to think about 10-50 years from now.

Council Member Bannon commented on Item #13, she doesn’t think Channel 7 is everything it could be, especially when it comes to the Green Initiative and things people can do. She would like to see us make better use of something we already have.

MOTION: Warren moved to approve the Council's updated list of priorities. Craig seconded.

VOTE: Motion carried 7-0, Staats absent.

CONSENT AGENDA

Kathy Sexton, City Manager suggested to remove the lease agreement with Big Daddy Fireworks. We had some things change at the last minute and will bring that for consideration at a future meeting.

Ordinance for Assessment of Mowing and Trash Removal

Background:

- The City of Derby has incurred costs in abating nuisances found to exist upon a property 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.
- The owner of record, at the time the charges were incurred, has been sent notification that Council will consider assessment by ordinance of the charges.

Financial/Sustainability Considerations:

- The costs incurred in connection with the parcel to be assessed total \$590.00.

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 trash 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:

- 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.

Recommend a Motion to:

- Adopt an Ordinance levying a special assessment upon certain property the costs incurred by the City of Derby in cutting weeds and otherwise abating nuisances found to exist thereon.

ORDINANCE NO. 2009

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT UPON CERTAIN REAL PROPERTY HEREINAFTER DESCRIBED AS THE COSTS INCURRED BY THE CITY IN CUTTING WEEDS, REMOVING DEBRIS AND OTHERWISE ABATING NUISANCES FOUND TO EXIST THEREON.

MOTION: Bannon moved to remove the lease agreement with Big Daddy Fireworks from the consent agenda and approve the remaining item. Craig seconded.
VOTE: Motion carried 7-0, Staats absent.

ADJOURNMENT:

MOTION: Craig moved to adjourn at 9:57 p.m. Horyna seconded.
VOTE: Motion carried 7-0, Staats absent.

ATTEST:

Dion P. Avello, Mayor

Jean Epperson, City Clerk