

**UNAPPROVED  
REGULAR COUNCIL MEETING  
January 26, 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  
Mark Staats, Tom Haynes

COUNCIL MEMBER ABSENT

WARD III

Cheryl Bannon

Flag salute was led by Boy Scout Troop No. 683. The invocation was led by Pastor Al Hill, Glorious Life Church.

**CONSIDERATION OF MINUTES**

Minutes of the January 12, 2010, Regular Council Meeting.

MOTION: Craig moved to approve. Haynes seconded.

VOTE: Motion carried 7-0, Bannon absent.

**PUBLIC FORUM**

**Mayor Avello** clarified that if someone wants to speak on the Senior Center they need to do it during the public forum. Public comments will not be taken during discussion of the agenda item.

**Kathy Sexton**, City Manager, explained that the agenda is the Welcome Center item.

**Vivian Peiffer**, as a concerned citizen she attended the council meeting on October 13<sup>th</sup>. She attended mainly regarding the Senior Center. The entire meeting was very informative. After hearing the council's rationale and declining the Derby Health and Rehab Center for the tax abatement she can only hope you will use the same rationale in your vote for the use of the vacated library center. As she sees it the same rationale should be used in answering the Derby Chamber of Commerce on their proposal of space. The Chamber has presented a proposal in the 9<sup>th</sup> hour. This proposal should be declined for various reasons. One, because of after the fact, just as you voted down the tax abatement for the health center. Two, the Chamber is a separate entity established by the business community for their benefit and is funded by membership dues. Three, with the Chamber of Commerce proposal and now the Derby Community Foundation, who will be the next one? Four, if their proposal is accepted the council will certainly be setting a precedent. After all, the citizens of Derby voted several years ago to go forward with a new library with a promise that the vacated library would be divided between the Senior Center and the City of Derby, no separate entity included. She trusts you will search in your minds and uphold the wishes of the citizens of Derby as they voted for the new library

several years ago, do not break the trust the citizens of Derby have placed in you. She studied the architect's proposal #3, the fitness room remains insufficient. The computer room needs to be moved and enlarged. It definitely is not set up in a classroom environment. Classes are limited in size and extremely overcrowded. Our daily exercise programs have outgrown the largest room we have now. The combined total square footage of the two new classrooms in the proposal is 26 sq. ft. less than the multipurpose room we now have. The center has offered new classes this year only to be faced with a waiting list due to the lack of space. One class is being offered by the Sedgwick County Department of Aging. To properly accommodate all the classes that are offered and to have adequate space the commons room would need to be allocated at least 80% of the day, 5 days a week to the Senior Center without preemptive rights like we face today. Much needed space could be gained to accommodate these discrepancies if the Chamber and Community Foundation were not in the mix. City Manager Kathy Sexton projected the current proposal would be sufficient for the next 8-10 years for the Senior Center. Today we have an enrollment of 2,643. For the year 2008 we had an enrollment of 232 new members, for 2009 we had 243 new members, an increase of 11 new members over the previous year. If these figures hold steady for the next 10 years, that is an increase of 2,432 new members, without counting any increase in yearly totals and we are just getting in to the era of the baby boomers joining us. Her question to Ms. Sexton is, how is that projection a true statement when the current proposal for the Senior Center is inadequate now. The City of Andover is appealing a property tax bill of \$86,000 that was assessed on a new library the city opened earlier in 2009. Butler County approved the exemption in March however the state rejected the exemption. With no explanation from the state, Mayor Lawrence is assuming the exemption was denied because Scooter's Coffeeshouse, a for profit business occupies a small space in the library. The city council has asked Scooter's to close until after the appeal has been resolved. She called the City of Andover yesterday and spoke with a city employee, she stated their first appeal has been denied, they are appealing for a second time. Meanwhile, Scooter's remains closed. She asked if the City of Derby will be placed in the same situation if they allow the Chamber of Commerce, a separate entity created for the benefit of the business community to be located in city property. Will the taxpayer's dollars be used in the construction of the Chamber of Commerce Center? If so, another precedent will be made, taxpayer's money used for the benefit of a separate entity. She knows that Mark Staats indicated that he will leave the room and abstain from voting on the Chamber issue due to conflict of interests. She believes this would hold true as well for any council member who is a member of the Chamber. She pleads with the council to uphold the wishes of the citizens of Derby as they voted several years ago, do not break that trust the citizens of Derby has placed in you.

**Stephanie Knebel** read a letter from Council Member Bannon who is absent.

Mr. Mayor and Council,

Although I am unable to attend this evening I would like to share my thoughts with you on the subject at hand. When the Library vote was advertised to the public it was as space that would be used by BOTH Senior Center and the City- No space division was talked about at that time.

What also was not talked about was using the space for another entity, albeit the Chamber is an important part of our community. It is however made up of a membership. I have voiced my concerns from the beginning about how well they will be able to serve ALL businesses in the

City since they will be in a tax supported facility- i.e. all businesses and homeowners help pay for this building and its costs. I believe that this is a step down the wrong road for a number of reasons, I do however acknowledge and think a proper use of the space would be to have a shared office of our Community Marketing Director, when required, and the Community Foundation Grant Writer and the Eco Devo Director. If you gentlemen decide to start the Welcome Center in City facilities be aware that this will be a jump off point to a future Visitors and Convention Bureau, something I think is too far down the road to even consider. Derby is a wonderful town for many many things, but even Kansas as a whole has a hard sell when it comes to tourism. This could be a much bigger cost than any of us could foresee. Bottom line, this is the wrong place for a Membership Organization. What is housed in this building should be representing the entire community the same--member or not. I looked at the contract and firmly believe that \$300 per month is way way below value even considering what they would be providing in return. I personally would not go for less than \$500 per month, but you are the ones making this long term decision- Decide Wisely.  
Councilwoman Cheryl Bannon

**Lisa Moling**, American Family Insurance, has been a Chamber member for 6 years, a Chamber champion and is currently serving as the Chairman-elect for the board of directors. She is also a recent addition to the Derby Community Marketing Committee. She is here tonight on behalf of the board of directors to ask for your consideration in creating a welcome center to be staffed by the Derby Chamber of Commerce. The proposal was made because we perceived it to be an opportune time to pursue with the current open space created by the library's move to the new location. It is common practice for chambers to partner with or receive funding from cities who collect transient guest taxes and to provide visitor, new resident or tourism services for a community. At this time the Chamber is not asking anyone for funding or taxpayer support. We are asking to rent a small portion of the city's space to create a welcome center that the Chamber, City and other community partners will promote as the one stop information source for businesses, citizens, visitors, and new and existing residents of Derby. The welcome center will enhance many services currently being provided by the Derby Chamber of Commerce. The welcome center will allow the Chamber to work with community partners in a more collaborative way to provide necessary information to new residents and businesses to make Derby the community of choice. A welcome center will give Derby the opportunity to aggressively promote our community as we compete for new residents with our neighboring communities of Maize, Andover, Rose Hill and even Mulvane. There is no doubt that every non-profit organization in Derby has the best interests of Derby in mind. However, the Derby Chamber of Commerce is the only fully staffed organization providing services for the entire community on a daily basis. In the past year the Chamber has fielded hundreds of inquiries, phone calls and walk-ins about people moving here, people wanting to start a business or people just needing information about something and not knowing where else to go. One of the community marketing plan recommendations was to create a place in Derby where we can showcase everything the city has to offer. The time is right to create that welcome center to meet the needs of the growing community. A partnership with the City to create a welcome center will be a win-win situation for everyone.

**Angela Back**, Director of Business Services Meritrust Credit Union, is on the Derby Chamber Board of Directors, Chairman of the Young Professionals Group and a Derby resident. She has

been in the banking industry for approximately 12 years and has spent approximately the last 10 years working with small businesses. During this time she has assisted numerous individuals with the startup of a new business. She finds that in many new business startups, the individual serves as the owner, the accountant, the marketing person, the maintenance person, HR, and the clerk that assists you when you walk in the door. There are several hats to wear while starting a new business. Small businesses look to the Chamber and other community resources to assist them in making their business successful. Statistics show that new businesses who reach out to available resources are three times as likely to be successful. The welcome center will be a valuable resource for businesses as they look to start or grow a new business in Derby. The Chamber has proposed to create a business center within the welcome center that would enhance the resources currently provided by the Chamber and the City. The Chamber and City are partners in helping businesses get established. The Chamber refers people to the City for information regarding zoning, signage, business licensing and working with developers as well as many other things. The Chamber offers opportunities to learn about the community, get connected with other business people through networking and educational opportunities. This partnership shows support to our local business community. As a Chamber board member, she can assure you that the Chamber helps all businesses when they walk through the door or call, not just members of the Chamber. All businesses are potential Chamber members and our assistance lends to the value we have to offer them. The Derby Chamber of Commerce is a not-for-profit organization made up of approximately 375 people representing over 300 businesses. The Chamber is funded and supported by business membership. We have a vested interest in the success of not only the business community but the Derby community as a whole. Please consider what the welcome center has to offer to the community and businesses in Derby.

**Colene Read**, Realtor with Coldwell Banker/Plaza Real Estate, has lived in Derby for 34 years. She thinks the welcome center with the City and the Chamber is a great idea. She and her husband are both now senior citizens and they feel the reason Derby is such a great community is because so many people work together to make it that way. She feels the proposed welcome center is something that we need. It's not a new concept. You have already received packets that have information and from the report you got you will see that out of the 10 towns that were surveyed 8 of them already had some type of partnership between the city and the Chamber. Some combined the Chamber and the city's convention and visitor's bureau, which we don't have, but this could kind of fill that gap. The Chamber is automatically the first place people go when they want information about the city. It just makes sense to have the City office in one location where the Chamber is so we can utilize it as a welcome center. One town that was not listed on the report you received was Hays, Kansas. They have built a welcome center that houses the Chamber, Economic Development, Downtown Development and the Convention and Visitor's Bureau under one roof. If all of these other towns recognize the value of a partnership with the Chamber and the city working together it must be a good thing to do. Some citizens may have a mistaken idea that the Chamber only serves the business community. It is true that local business people are members and have always supported the Chamber, however, as she mentioned the Chamber staff willingly reaches out and tries to help anyone who calls or comes in with questions about Derby. A strong Chamber attracts new business to the community. That benefits everyone who lives here, not just Chamber members. A few examples, we have a state of the art water park and a fantastic new library. These are quality of life features that many residents enjoy. If we didn't have a strong business foundation we would not be attracting

consumers to shop here and would not have the sales tax dollars to pay for such features. Everyone benefits, not just business. When new people come into our town and need information it is important to them to be able to get it with a minimum of hassle and to have someone smile and say “welcome to Derby.” It could make the difference in having them choose Derby over another area to live. The Chamber has always served as Derby’s front door but sometimes that front door has been difficult to find. As an example of that, recently a young couple came to Derby and were looking for a place to settle and call home. They had been to Wichita and decided they did not want Wichita so were looking at the small towns around. They had been to Andover and then came to Derby. Their first stop was city hall because they did not know where to go, from there they were directed to the Chamber office but got mixed up and went to the wrong bank building so they had to be redirected to the Chamber office. After they got there with their children they had questions about the schools, the water park, the library and the recreation center. The Chamber staff spent about 30 minutes answering their questions, providing them with maps and other information. The young woman at the end of that time said “this is where I want to live, Derby has everything we need”, but they needed a place to go to get that information. This example is just one of hundreds that happen every year because the Chamber is where people go when they want information. Why do we need to change? We have always done it this way and it works fine? That argument doesn’t work any longer because Derby has changed. We are a successful growing community and we need a central place where people can come for information. The welcome center will allow the Chamber staff to enhance the duties they already perform in serving the community as a whole. She encourages the council to be open minded as they consider this proposal.

**Andy Mullen** has been a Derby resident for more than 27 years. In December of 2008 he was an engineer at Cessna when they started talking about layoffs. On January 1<sup>st</sup>, 2009 he contacted Rhonda Cott at the Chamber of Commerce for information on starting a business in the City of Derby. Rhonda was able to direct him to many places to find information on starting his business as well as where to obtain a business license. He received a lot of information from the Chamber long before he joined the Chamber. Had he not had the Chamber he would not be where he is today. Within the first year of starting his business he opened a store front on K-15 and now has one employee and is ready to hire a second. Before coming to this meeting he read the City of Derby’s strategic plan. The Chamber directed him to Allison Moeding at city hall and it was through both entities that he received the support he needed. The goals of Derby’s strategic plan were filled originally by the Chamber of Commerce before he joined.

**Rael Hodgson** has been a business owner in Derby since 1993. Her relationship began with McConnell Air Force Base in 1995, serving as an honorary commander for many years and now as a Golden Eagle. She sits on the executive board for Friends of McConnell and represents our community as a member of Military Affairs for the Chamber of Commerce, as she has for the last 15 years. The roles have allowed her the opportunity to provide eyes and ears for our community in Derby. It is no secret that when it comes to the men and women who fight to protect our freedom she will do almost anything to see that they are taken care of while they are here at McConnell. Without that freedom we probably wouldn’t be here tonight and the council wouldn’t be making decisions about the future of this community. As a Golden Eagle her job is to not only support the men, women and families of McConnell inside the fences but also on the outside. That is why she is here. The military affairs group works hard to keep Derby on the

radar at McConnell, reminding them through support at different events on base and here in our community we hope that our actions speak loudly about our appreciation for what they do and the relationships we have with them here in our neighborhoods. As recently as yesterday several of us met with the wing commander in executive session exchanging information about our community and about the base. After that, we met with the airman and family readiness flight chief about other needs the families may have. Years ago when an airman was told their next assignment was at McConnell the first thing they would do was grab a map and try and figure out where it was. Not too terribly long ago a lot of people in this room got on a KC-135 and took a flight to Grand Forks. We realized that part hasn't changed much because when we got there there were still a lot of questions from those people even though they already had packets about our community before we even arrived. Representatives from our city, school district and Chamber members were a part of the team that went up there to basically "sell" Derby and she thinks we did a pretty good job. There were nearly 700 families at that time that were moving to our area. She doesn't know how many they got to come to Derby but in her book it's never enough. Some things have changed throughout the years. Derby used to be pretty much the community that people chose to come to if they didn't live on base. Not so much anymore, we have competition now. They go north, northeast, northwest, east and even some go south. Even though they might have to drive further to work we are competing for their attention and hopefully an opportunity to teach their children and share our lives in our community. We can't afford to blow our first impression. We can't get on a plane every time we know someone is relocating and try to sell Derby. We have curb appeal, we have great new businesses and new restaurants, we have a beautiful new state of the art library and a water park to wow the kids. The military people look way beyond the curb appeal; we have people that pay attention to detail, which she appreciates when their job is to look out for her freedom. Their families mean more to them than anything else which is evident by the willingness to give their lives to see their family is protected and safe, and their children and grandchildren have a country to live in with freedom. Consequently, they move here looking for a community that will provide an environment they can feel confident in and that will provide for their families while they are away. She personally thinks that is Derby. They want the nuts and bolts from the beginning, they want the details and they don't have a lot of time to search for answers in the community. They understand protocol, they understand alliances, they understand partnerships and pooling of resources. After all, they do work for the government. In every mission they have, every assignment they have and every project they have a POC, a point of contact. We are looking for a point of contact here in Derby, our POC, one that we can grab a hold of. Their lives are complicated enough inside the fences. On the outside they want to simplify their life. Providing them with a POC, one place they can learn about our city, our schools and our businesses and our details, with real people who actually communicate with them. Answer their question and have real answers at hand and not just a bag of brochures and a website gives them an experience they will remember and the ability to walk away from here with a high degree of confidence that our community cares enough to want this to not only be their first choice but their best choice. Not just today but in the future. Twenty years from now these people will be looking for a place to retire. Their retirement age isn't 65, its 45 and she would like to have them back. Her commitment to the men and women of McConnell Air Force Base and this community will never change. Something else that will never change is that she doesn't do politics. Personally, she doesn't have a preference for where an alliance like this will be housed to promote our community. What she knows is that a visible partnership is needed for us to be able to compete.

With that said, she considers herself somewhat practical and down to earth and logistically, locating it here with the entities and resources needed to complete this community team makes pretty good sense.

**Eleanor Underwood** presented the council with a memorandum from the Senior Center Advisory Board: Members of the Derby Senior Activity Center are looking forward to the notice of approval of the Community Development Block Grant and the beginning of the remodeling to provide desperately needed space for the use of senior citizens. The large room labeled training room on draft 3 of the renovation of the existing library is designated as shared space. It is our understanding that this room will be reserved for DSAC activities Monday-Friday mornings, first and third Friday luncheons of each month and other afternoon and evening activities as needed through the year. We believe that space already approved as specified in the grant will certainly be an improvement over the present space. However, we do not believe that it will be adequate for the next 5-10 years. We request that you as elected officials consider the needs of the senior citizens of Derby and honor the promises of the political posters used in the campaign to vote for the new library in 2007. They request this memorandum become a part of the record for this council meeting, dated January 26<sup>th</sup>, 2010. Regarding paragraph #2, the city staff assured us the large room would be available to us during the times listed. Looking at the proposed configuration on draft #3 which includes Derby Chamber of Commerce, Derby Welcome Center, Derby Community Foundation, etc., it appears to waste a great deal of space with a larger lobby and hallways. It also requires another entrance which would certainly add to the cost of the remodel. Also the present configuration would interfere with the expansion of the fitness room which would certainly need expansion in less than five years. She has listened to all of the presentations of the Chamber members and agree so much that a partnership needs to be formed. The only thing she would suggest that it be a different address than 611 Mulberry. She sees all of the good things that they do; she does not agree on the location, and there certainly are other locations that would certainly serve that need. Something was mentioned about the different partnerships. She thinks there are partnerships in many cities and maybe even most. She thinks Liberal may have been the only one that had the Chamber in the city building; others were in the Convention Bureau. Some things we dreamed about if we had more space is a little more room for line dancing. We had 87 people sign up and if you have been in our area, there's not much room for that. The other thing would be quilting, there are people who would like to do quilting and you need to leave your equipment up, you can't take the frame down and store it in a room someplace. Other ideas would be meeting the needs of special interest groups such as military, our retired farmers or businessmen. All of this would be space that would be available on an ongoing basis, not something that would have to be reserved or working around other entities. As a resident of Derby she would like to be able to say we have a mayor and city council who care about senior citizens and their accommodations whether its election year or not.

**Barbara Klish** has lived in Derby since 1967 and is a retired teacher working in both the Wichita and Derby school districts. She does not want to discount anything that has been said about the value of the Chamber of Commerce or our city council; you have all done a wonderful job for us. She has not heard anything that indicates the present location of the Chamber is keeping them from doing a great job, it sounds like they are doing a wonderful job. She has heard many people say many things that we need and could also add to services offered if we

had the space for the Senior Center. She does not think that anyone, by any stretch of the imagination would tell us that when they voted as it was stated for use of the vacated space that it was going to be used for anything other than city administration or offices and the Senior Center. Derby is a city that plans well for all age groups all over town. There are many parks, pools, different areas that are planned specifically for sports, all for the younger crowd. This building has the only space that is devoted exclusively for retired and older citizens and that needs to be taken into account. Whatever we need isn't going to be placed anywhere else. Some of the concerns that were brought up by some of the people she has talked to include: the City Council, as far as she knows did not debate or entertain proposals for use of space by the Chamber of Commerce before changes were directed to the architect. From that point on it seems like everything has revolved around having this Chamber area. As such, that's been disappointing to the seniors to think that this decision was made without our input. As far as she knows Derby's only newspaper, the Informer, did not report on this particularly the pros and cons related to the use by the Senior Center. The fact that there may be some conflict of interests because many of the City Council members are on the Chamber and that one of the owners of the newspaper happens to be the chairman or president of the Chamber of Commerce. The conference room lobby and entrance to the welcome center that is being considered has been spoken of as shared space. When they figure how much square feet the Senior Center gets we are considered to be using about half of that space. There may be some convenience, but the fact is we really don't need those services anywhere near as much as we need the space. There probably is no limit as to how much space we could use. In addition to what Vivian talked about with the growing population there is an underserved area of seniors that would be wonderful to add and that would be those that are frail or handicapped. As you know services for people like that would take more space. There has been a question about the rent being paid compared to rent being paid for the bank space the Chamber uses. She does not know the answer but she has been told they will be paying quite a bit less if they get the space here. None of this disregards the good work of the Chamber of Commerce. Making an exception by giving them this space does set a precedent that is a concern. One member of the city administration did mention that maybe in five years they would take another look at whether this space would be allowed to be used by someone outside of the city and the Senior Center. That concerns her that the building is going to be developed, planned and constructed with the idea that maybe in five years they would change their minds.

**Council Member Craig** wished his wife a happy anniversary.

**Council Member Horyna** stated that last week Mayor Avello, Ms. Sexton and he listened to a speech presented by Governor Parkinson. The one thing he really pulled out of it is that we have to work together collectively and move forward. We had a wonderful time and the City of Derby was well represented.

**Ms. Sexton** pointed out the number of openings that will be coming up on city boards in May. Some of the members whose terms will be ending in May certainly will be asking to be reappointed but we are asking the public to look at and let us know if they are interested in any of these boards. Some people will not want to be reappointed and it might be an opportunity for the council to get some new people involved. There is an application form on our website and more information about the boards. Applications are due March 5, if anyone has any questions

they can call city hall. Also, the city will partner with several agencies and businesses in town for a presence for Derby at the Home Show coming up February 4<sup>th</sup> – 7<sup>th</sup> at Century II, sponsored by the Wichita Area Builders Association. It is an annual trade show that we like to have a booth in; many cities around have a booth. This year we are partnering with several businesses here in town: Tendercare Lawn and Landscape, Ultra Modern Pool and Patio, and Ecowater along with our community partners: the Chamber, the school district, the DRC and the Community Foundation. Everyone will help staff that booth, and we have new goodies to give out to people. A lot of people that stop at the booth are Derby people who live here or live near who want to talk or have questions or comments.

**Council Member Haynes** indicated he has had some very good conversations with some of our citizens here in Derby about getting involved. This is your opportunity to get involved with the City of Derby and the things that are happening. Don't be afraid to step up to the plate, fill out the application, and do what you need to do and try to get on one of these boards. It's a great time, you'll see what's going on and you will learn a lot.

**Mayor Avello** advised the boy scouts are here this evening. Before the meeting they had a little get together. He goes to the schools and enjoys that because the youth ask us many good questions and we had those again this evening. They are very engaged in this community and want to be part of this community and want to help this community. They volunteered to do some work for the City, wherever we can place them to help. The City is going to be in good hands in the future. More and more youth are getting involved in what we do in the City and that's a very good sign.

## **CREATION OF A DERBY WELCOME CENTER**

**Council Member Staats** excused himself from the meeting.

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

### **Background:**

- At both the August 11 and October 13, 2009 Council meetings, discussion was had about repurposing the space formerly occupied by the Derby Public Library.
  - For the past several years, the space has been designated by the City Council in the Capital Improvement Plan to expand the Senior Center, expand city hall, and create a large room to be shared to meet various City needs for training, meetings, and Senior Center programs.
  - On October 13, the City Council approved a resolution to apply for a federal grant to assist in funding the remodeling of a portion of the space to expand the Senior Center. We await a decision on that grant.
  - If we get the grant, the remodeling project will proceed with finalizing design and bidding construction. If the grant is not approved, additional work will be required during this summer's budget process to determine when city funding can be reallocated to the project.
  - A floor plan is attached for reference. No changes have been made in the floor plan since the Council last saw it in October.

- In May 2009, the City received a letter from the Derby Chamber of Commerce proposing to use a small portion of the space designated for expansion of city hall to create a Derby Welcome Center, essentially serving as a visitor’s center and doubling as the Chamber’s office.
  - The City determined that the idea had merit and requested a detailed proposal, which was provided in December.
- In September 2009, a special committee of volunteers and staff was established to ensure the entire remodeling project addressed the concerns raised by Senior Center patrons and City Council members at the August 11 Council meeting.
  - After holding two meetings, all those issues were addressed, an amended floor plan was created, and a report was provided to the Council on October 13.
  - A few additional issues were then raised, which the committee addressed at two additional meetings in November and December:
    - Reuse of hallways in the current Senior Center
    - Size of the big room
    - Name of the big room
    - Clarification of space allocation among functions

	<b>Sr. Center</b>	<b>City Hall</b>	<b>Chamber</b>	<b>DCF</b>	<b>Shared*</b>	<b>Other**</b>
Sq. Feet	2,223	1,480	<b>390</b>	<b>72</b>	5,348	2,487
% of library	18.5%	12.3%	<b>3.3%</b>	<b>0.6%</b>	44.5%	20.7%

\* **Shared** includes training room/kitchen, conference room, lobby/exhibit area/coat closet, vending, and restrooms.

\*\* **Other** includes mechanical room & hallway circulation.

- The Committee then spent time at its November and December meetings on several related topics, including:
  - Understanding the Welcome Center concept
  - Understanding the relationship of the Welcome Center with the Community Marketing Director, City Economic Development Director, Chamber, and DRC Marketing Director
  - Research on other cities and their involvement with their Chambers of commerce
  - Synergies that a Welcome Center could bring to the Senior Center (city tours, docents, hosting receptions, speakers bureau, business support)
- At the conclusion of its final meeting in December, the Committee agreed on the following:
  - The Chamber does good work.
  - The City hasn’t been as financially supportive as some other cities in Kansas are with their Chambers (some with cash, others with space or other in-kind support).
  - Back in the early 1990s, the Chamber office used to be located in a City-owned building but separated when the new city hall was built and the City determined it best to change locations.
  - The committee would not make one specific recommendation to the City Council.
- The operating agreement would engage the Chamber to staff the Derby Welcome Center to serve as the front door to the community, greeting visitors, residents, newcomers, and business people. The Welcome Center would provide:
  - A one-stop location to showcase the Derby community.

- Foster a public-private partnership to address the needs and concerns of residents.
- Reflect the mutual interests of the City and the Chamber in the community's overall success and prosperity.
- The City would provide use of 390 square feet of space, use of two shared meeting rooms, utilities, technical support, and cleaning services.
- The Chamber would provide enhanced services including but not limited to the following:
  - Staff the Welcome Center 8-5, Monday through Friday.
  - Create and promote a Business Center to assist businesses with start-up, growth and development resources.
  - Distribute newcomer relocation packets.
  - Organize and host quarterly socials with city officials and business leaders as well as an annual luncheon open to the community.
  - Operate a community ambassador program.

**Financial/Sustainability Considerations:**

- The net value to the City from this agreement is estimated to be \$8,439. Of that total value, \$3,600 is new revenue. The remaining amount is value from the shared use of Chamber-owned property, the value of additional Chamber membership benefits, and \$355 in annual savings to the library for its Chamber membership.
- In the future, the Chamber intends to re-purpose its annual savings (estimated to be \$8,953) toward hiring a part-time receptionist to add to its current staffing, which would also add value to the City through the Welcome Center.
- The operating agreement speaks for itself in terms of the exchange of various services between the City and the Chamber, many of which are difficult to equate to a dollar amount at this point in time.

**Legal Considerations:**

- This operating agreement characterizes the relationship between the two parties as one featuring a number of shared responsibilities and the pursuit of the clear public purpose of providing a new Welcome Center function.
- The City of Andover is currently in a dispute before the Court of Tax Appeals as to whether the Andover library should be exempt from *ad valorem* tax.
  - Andover leased space to a for-profit coffee shop, and recently the state Court of Tax Appeals denied the city's request for a tax exemption for the building. Andover shut down the coffee shop and appealed the decision. A final ruling is still pending.
  - If the state later upholds its decision in the Andover case, cities and counties all over the state, including Derby, will have to deal with the issue. For example, we contract with private concessionaires for service at Rock River Rapids, our ballparks, and the skate park...as do cities everywhere. Such concessionaires make a profit but also serve a public purpose of hydration and nourishment at recreational venues.
- The City of Derby is on solid legal ground in executing this operating agreement since (1) the Chamber is incorporated as a not-for-profit entity, as compared to a coffee shop that's clearly intended to make a profit; and (2) our building already has a tax exemption.

**Policy Considerations:**

- Based on growth estimates of the city's population, the City's staffing needs, and the Senior Center's patrons, the recommended floor plan is expected to provide for the space needs of the various functions of the City, including our Senior Center, for approximately 8 to 10 years.
- Once the City Council determines whether to establish a Derby Welcome Center, staff will contact the Derby Community Foundation (DCF) to respond to its letter of July 2009 requesting consideration for a small office space for its part-time executive director. The DCF currently has no permanent office space and relies on the City for the bulk of its operating budget.

DISCUSSION:

**Council Member Meidinger** stated that a couple of issues have come up as conflict of interest. The only thing he can say about conflict of interest, he did look it up on the internet and basically everyone on this council, including Mark Staats could participate in this event based on an issue in Hutchinson where they had a perceived conflict and the State Attorney General said it was fine. He was on the ACE Committee and he was removed from the ACE Committee because of a perceived conflict of interest with a group that was going to request money from the ACE Committee. He stepped down and somebody else was appointed. His point is if it's good for one council member it should be good for all council members. He was not in a conflict of interest. This was a loose knit operation that was raising money for a golf tournament and there was absolutely no conflict of interest yet he was asked to step down and he graciously did. He asked the same with the members that are on the Chamber of Commerce. That is their decision, they are legally not bound. Morally he stepped down and thought it was a good move, that's their judgment. There has been a lot of talk about how the Chamber and everything else came to fruition. He would look at the facility's information that was sent out to the taxpayers that voted on the library issue. It simply says vote for the library and the senior expansion will go into the current facility. There was never any mention about a third or fourth party. It was going to be split between the City of Derby and the Senior Center. He also indicated there was a lot of people that said the Chamber does a great job but as Ms. Sexton pointed out, the Chamber is located in only one of the existing cities that was discussed, and that is Liberal. Welcome centers, those are private functions and should be treated as such. There as been discussion about how much the other cities participate with public funds to welcome centers, etc. He pointed out they are correct, the city doesn't spend much money with the Chamber. We have chosen to spend our money with the Community Foundation, tax money going to different places. Maybe next time we will devote money to the Chamber rather than the Community Foundation. A comment was made about taking care of our senior citizens and how it would be nice to move back to Derby after a stint in the Air Force. A Senior Center would take care of that. A community is judged by how they take care of their senior citizens. He pointed out the expansion of this city hall. When he was first elected we were downtown and we thought we had a great big building down there. We outgrew that one so we built this building. The next thing you know we have outgrown this one. He does not know the exact dates of each expansion but we all thought we had planned so well in the future but we outgrew this building. He would say the same thing held with the Senior Center. His recollection is we have had five different Senior Centers. We had one at the original DRC, then the DRC, then the old old library, then this one and now this one. We have had five different expansions in some 20 years. To say that

the room is ample and adequate for the seniors, especially with the baby boomers coming up, he thinks is being short sighted. He got a letter from a constituent and he pointed out some very interesting things. His main concern was that the Chamber of Commerce has their own agenda and they are solely for their own membership. He would think if he joined an organization they better well take care of me and I wouldn't care about the rest of them. If you want to join my club you pay the memberships. If he is paying a membership and somebody else doesn't, do we get equal service? Why pay a membership? He pointed out that government shouldn't be competitive of private enterprises. What we are doing is providing space at virtually no cost to the Chamber and we are interfering with private enterprise. The Chamber does a great job, everything they have proposed are intangibles. The tangible part that he sees is that we are taking space from the Senior Center that we are going to need in the future. We should keep this space for the senior citizens and we would be better off as a community.

**Council Member Craig** advised this issue has been on the table for a while. The motion is one generalized motion that you have this evening. Do we want a Welcome Center? Do we want the Chamber of Commerce to run the Welcome Center? Do we want the Chamber of Commerce to pay their fair share? And do we want the agreement to run five years? He finds these things to need work. Why is it that first of all we didn't have a vote to whether we were going to get to this point or not and here we are this evening? Presently the Chamber pays \$950 a month rent. He is an advocate of the Chamber of Commerce; they do an incredible job for this city. They have existed for a long time and do a lot of things for this city. This is not about that. Right now you are paying \$1.66 a square foot per month. By the Welcome Center sheet, the charge will drop to 77 cents a square foot, although you have reduced space. He thinks that is under market value. That's in the contract therefore it is an issue that needs to be discussed. He finds that to answer these questions is primary for the council. He doesn't want to make a motion that covers the entire thing without being able to divide this up because he thinks there are some things that need to be changed. Five years is an incredibly long time. There is not a termination clause in here, you just give 90 days notice and it changes. He is not sure that's a good position to be in in a contract. He is not positive because he is not the legal person. The contract itself is very detailed in what we do, what they do, but there are no measurements in it or what we expect to get out of it. Some of those things need to be addressed. He commented on the letter received from Mr. Nye, the bottom line question is how do the taxpayers know that the services are being delivered. He thinks we need to do some work on the verbiage we have. He appreciates the detail of what we are supposed to do and what they are supposed to do but he thinks there are some specifics that are left out in that regard. He does not want to make a generalized motion that takes everything into account at this time. He appreciates Ms. Bannon's concerns. We both have the same concerns as far as length of contract, metrics, payments and space. He does not know at this time, even though we have been okayed for the grant of the remodel of that one area, he is still apprehensive about the cost of that particular design because he doesn't think we have an idea of how much that is going to cost right now.

**Ms. Sexton** indicated we have some early estimates that were done some months ago but we need to do the design. We have not paid the architect to proceed with the design but that is the next step if this is approved tonight. The next step after that is to put it out to bid. As you know most everything we have put out to bid in the last few months has come in under estimates.

They are hungry, it's a great time to do this, it's a relatively small project and if your approval is given we will proceed with all due haste so we can take advantage of that business climate.

**Council Member Craig** advised he has put down an equation and took the Senior Center out of it and made a decision on his behalf about the Chamber of Commerce. He has a real concern about the Chamber being in a government tax paid facility. He has specific ideas of how the reaction is going to be to that. If the Chamber was not there and you did not have the Welcome Center proposal, what would that look like? Would it still look the same?

**Ms. Sexton** advised the cost to the city would be much higher to have a Welcome Center. If you are talking about just the floor plan, she sees no difference in the floor plan if we engage the Chamber or do not engage the Chamber. This is the designated area for City Hall expansion and shared space.

**Council Member Craig** advised he knows there are a lot of senior citizens out there, he took you out of the equation. In that Welcome Center he would put you back in the equation and see how well you could run a Welcome Center.

**Council Member Nun** thanked everyone that commented tonight and the folks that also sent emails. You gave us lots of good points to think about. He will admit when this first issue came up he was rather skeptical about a Welcome Center being in the city building. As he got to think about it more he got a little more excited about it. He thinks it's a great opportunity to have a partnership. It is laid out in our community marketing plan to do something like this. There's a lot of synergy that could go on. In one of the group meetings he threw out that he thought having the Welcome Center in the Senior Center in close proximity would really be good. That didn't go over real well so maybe he was too much of a dreamer. He thinks there's some real good points that can be made. As Mr. Craig said if the seniors wanted to run the Welcome Center maybe that could be done. As Mr. Mullen said, if we develop a business center, his business is exactly what we can achieve here. Helping people get started to develop their own business and grow within our community. That's really what it's all about. He does share some of Mrs. Bannon's and Mr. Craig's concerns. One, do we need a Welcome Center? He can answer that for himself, yes he thinks we do. Does it need to be run by the Chamber? He can probably go either way. The length of term on the contract, five years does seem a little long. The \$300 rent could maybe be a little more but he sees on the sheet that some places get free office space, some get below market rent so it's not out of the ordinary. He addressed the issue of conflict of interest. He is a member of the Chamber; he is not on the board, not on any committees. He goes to breakfast once a month and that's about it. If that's a conflict I'm sorry. I don't feel it is. If we go down that road we open up ourselves for every decision that comes up. For example, the hike and bike path along the golf course, if he was a member of the country club, he shouldn't have voted on that. The DRC contract with the City for Rock River Rapids if he was a member of the DRC he shouldn't have voted on that. He doesn't want to go down that road. He doesn't have a conflict. The way he is going to vote tonight would be the same way he would vote whether he was a member of the Chamber or not.

**Council Member Haynes** advised this decision has troubled him. He is the rookie on the council and this is probably the hardest decision he has had to approach since we've been here.

We've had some hard decisions but this one is near and dear to him. He in no way wishes to disrespect or disappoint what history has called our greatest generation. He believes that and what you've stood for way back when and what you stand for now. He has the utmost respect for the seniors and any of the seniors out there that know him or have spent time with him, he hopes you realize that. We also have to be concerned and prepared for our future. Our future is sitting on the front row right here. As a council member and a leader of this community he has to take those considerations into account when he makes decisions of this nature. Troubling as it is, we have to be leaders. That is why he is here. He is a leader of the community, you elected him to be here and he believes this is a win-win situation for the City of Derby. He believes it's a win-win situation for the Senior Center. He is going to support this. That might seem a little harsh for some but he's not going to apologize for his vote but he does feel like this is a win-win situation for Derby. He loves the seniors, has spent a great amount of time with them but he also has to keep in mind someone who is sitting up here on the front row which is our future and our vision of the City of Derby and how we need to move forward.

**Council Member Warren** stated that Mr. Haynes put it very eloquently in terms of our respect for the seniors. The difficulty in serving on the council and the desire we would like to have is to please everybody on every issue all the time but that is not always going to be the case. We represent the entire city. We represent seniors and youth. We represent business owners and factory workers. We represent homeowners and renters. We represent our long-time residents and the newcomers to our community. When we look at these issues we have to look at it in its entirety. One of the things he thinks makes Derby great is our willingness to put together cooperative efforts. We cooperate with the schools to use our facilities and our dollars as best we can. We cooperate with the Derby Recreation Commission, the Derby Community Foundation and the Chamber, just to mention a few. Cooperation benefits everybody and ultimately saves taxpayers dollars. If the city had taken space that had been set aside and dedicated for the seniors and said we are going to take that space away from you and give it to the Chamber that would be a very strong argument for him to say this is not the way to go. Basically what we have done is taken the space the city was going to use and say this would be a good use for our citizens overall. That is why he is going to be in favor of it. In terms of the dollars, there's lots of ways to make numbers look to see if this is a fair number or not a fair number. Using the figure in the staff report of a total of 390 square feet, that comes out to \$9.23 annual rent. \$9.23 is right smack dab in the middle of the road of fair market value. In town we see stuff on K-15 as low as \$6.00 a square foot, in some cases even lower than that. Some of the stuff on Rock Road will jump up to \$15-\$17 a square foot, or even higher. The range is from quite a bit lower to quite a bit higher than what we are looking at here. Just in looking at the figures he is seeing on the drawing he is only seeing 318 sq. feet so he is not sure where that discrepancy is. He is showing 88 sq. feet in the reception area, 88 sq. feet in the storage area and 142 sq. feet in the office area, totaling 318 sq. feet. Applying that number, we are at \$11.32 sq. foot.

**Ms. Sexton** explained if you add from the DCF office on the north side of the conference room, in the agreement is half of that space, half time use so we added 72 sq. feet.

**Council Member Warren** indicated that would keep us at the \$9.23 annual cost per sq. foot, which is not high and not low. It is a true fair market value for this location so he doesn't see

that as an issue. Mr. Meidinger's representation that the Chamber only represents Chamber members is a complete misunderstanding of what the Chamber of Commerce is and how it operates. The Chamber is promoting the entire city. In real estate he sells Derby and throws the house in for free. We have a great community that people want to come to. The Chamber is promoting the City of Derby and it does that in a variety of ways. The side benefit is that if Derby does well, our businesses do well. The Chamber is not out there doing anything that is going to be detrimental to the members that belong to it but he can assure you there are a lot of members of the Chamber of Commerce that don't get that much benefit out of the Chamber. They volunteer their time year in and year out and probably spend way more time than they need to promoting activity in the City to make the City of Derby a great place. Ultimately the question came out and was addressed by Mrs. Klish. She is in favor of a Welcome Center, just not at this location. Somebody may walk in with a question and the answer may be, you really need to talk to the folks down at the Chamber, they are right down the hall. Or, if someone comes into the Chamber and their question needs to be answered by someone at the city, they are right down the hall. He really thinks this is the best location for it to be. It is a fair agreement.

MOTION: Warren moved to authorize the City Manager to execute an agreement with the Derby Chamber of Commerce to operate the Derby Welcome Center in substantially the form presented. Haynes seconded.

MOTION TO AMEND: Craig moved to amend the motion to three years instead of five years and that the Chamber pay \$500 per month. Meidinger seconded.

**Mayor Avello** advised there are a lot of smart people on this council. When people ask him why Derby is so successful he tells everyone we are family here and we care about everybody and what we do in this community because we want to make it the best and we want people to come here to live. A lot of things have been said here tonight and they are all true. Every argument is a good argument. For him sitting in the middle the question is, not do we need a Welcome Center, we do. The question is does it belong in City Hall, that's the question we should be asking up here before we vote. He doesn't think he will have to vote tonight, he thinks he knows where the vote is going but that is the question that has to be answered. Not do we need one, but where should it go.

**Council Member Warren** asked if Mr. Craig's motion is one item or two separate items to be voted on.

**Ms. Sexton** clarified that the motion to amend and the second are being withdrawn and a new proposed amendment is being made to change the five-year agreement to a three-year agreement.

**Council Member Craig** withdrew his motion.

**Council Member Meidinger** withdrew his 2<sup>nd</sup>.

MOTION TO AMEND#1: Craig moved to amend the motion to three years instead of five years. Meidinger seconded.

VOTE: Meidinger yea, Nun yea, Haynes nay, Craig yea, Horyna nay, Warren nay, Avello yea, Bannon absent. Motion failed 3-3. Mayor Avello broke the tie by voting yea. Motion passed 4-3.

MOTION TO AMEND#2: Craig moved to amend the motion to change the \$300 a month lease payment to \$500 a month. Meidinger seconded.

**Council Member Warren** advised that comes out to approximately \$15.38 sq. foot which is too high.

**Council Member Craig** indicated that if his figures are right they are paying \$20.04 per sq. foot per year right now. He thinks it's fair.

**Council Member Warren** advised that \$15 per sq. foot is close to the rent that is going along the premium spots of K-15. It is high rent and it goes against the city's best interest in terms of putting a center here. He will oppose that amendment.

**Council Member Meidinger** indicated that is the price you pay to be next to the city manager. There are intangible things the Chamber is getting. They don't have to worry about a parking lot, they don't worry about maintenance, telephone, computers, everything is furnished for them. If \$15 is high they are probably getting a little bit more than you would get up on K-15.

VOTE: Meidinger yea, Nun nay, Haynes nay, Craig yea, Horyna nay, Warren nay. Bannon absent. Motion failed, 2-4.

The original motion, as amended, became the focus again:

ORIGINAL MOTION, AS AMENDED: Authorize the City Manager to execute an agreement with the Derby Chamber of Commerce for three years to operate the Derby Welcome Center in substantially the form presented.

VOTE: Haynes yea, Craig nay, Horyna yea, Warren yea, Meidinger nay, Nun yea. Bannon absent. Motion passed, 4-2.

**Ms. Sexton** advised she would take this proposed contract to the Chamber Board for their consideration.

The meeting recessed at 8:11 p.m. and returned at 8:21 p.m.

Council member Staats returned to the dais.

## **POLICE DEPARTMENT STRATEGIC PLAN**

Robert Lee, Chief of Police, presented the staff report.

### **Background:**

- During August of 2009 members of the Derby Police Department, both commissioned and civilian, began the process of developing a five-year strategic plan. This plan involved identifying future goals and challenges and preparing strategies necessary to achieve them. Citizens from the community assisted in developing this plan.
- The purpose of the plan is to create a comprehensive guide detailing goals and strategies necessary to provide progressive and proactive public safety services to the citizens of our community.
- The primary focus of the entire plan is to maintain a safe and secure community. A total of seven broad goals were established.
- Implementation of the plan will begin in 2010.

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

- Elements of the plan that require financial considerations will be addressed during each fiscal year budget and planning cycle.

### **Legal Considerations:**

- State law provides immunity from liability for damages resulting from the manner in which law enforcement services are furnished, but the research and analysis behind the strategic plan, and the strategies it contains, would be instrumental in defending the City or its employees from claims for alleged violation of civil rights.

### **Policy Considerations:**

- Adopting a strategic plan allows us to plan for and continue to provide efficient, ethical and professional public safety services. It identifies to department members and citizens the critical goals that we will strive to achieve in the next five years.

## **DISCUSSION:**

**Council Member Haynes** stated that as we grow as a city it is refreshing to see strategic plans coming up, especially for the police department. It's also good to see enhanced employee skills and leadership. He thanked Chief Lee for the job he has done over the past year for increasing the police department's public service and customer relations skills. A lot of times we fail to realize how important that is when dealing with the public while dealing with all the bad situations. We get kind of calloused and sometimes we have to pull ourselves back and realize we are still dealing with people. He commended the chief on the job that he and his staff have done. He knows several officers and he can see a change in the atmosphere and the culture. It is good to see. He likes the fact we are concentrating on enhancing those types of skills and giving the police officers the training they need to deal with the ever expanding city of Derby.

**Council Member Craig** indicated he and the chief met yesterday and went over this in detail. He commends him on sticking to it. A lot of times these strategic plans are tough to come by, especially when you want things and really start to look at what Derby is going to need in the future. Without a real good plan that sets things straight it's hard to plan for that. One of our constituents that walked out this evening with his young son was telling him why he moved here. It got down to the bottom line of this being a safe community. That is one of the main things people figure into their decision to buy here. For the chief and the police department, if you have something not right in your neighborhood, call dispatch and tell them something is wrong. The police will figure it out for you. Don't hesitate to do that. If you have something unusual and you want to get a hold of him or anyone on the council, please do so. That's what they are they are here for, they are here to serve and our community is safe because people speak up. Don't be bashful because we can help you out if you have problems in different areas. Community policing is really tough, there are different aspects, but if everybody is on the lookout it makes it a lot safer for our entire city.

**Council Member Horyna** advised you have to have a good game plan if you want to succeed and this is a very good game plan. He commended the chief and his staff for putting this together; it is a very good document.

**Council Member Warren** stated he has an all star team with the committee members and wanted them to know how much they are appreciated.

**Council Member Staats** advised he wished he had seen a document like this during his tenure with the police department. Mr. Craig hit on something regarding community policing. The key word in community policing is community, it's not just the police department, it's everybody getting involved. If you see something, call. It doesn't matter if it's 11:00 a.m., that's when most of our houses are getting broken into. Everyone locks up at night but they don't lock up during the day. He is also glad others got involved. It is very important to get other community members involved; that adds a lot of good ideas to this plan and keeping those people plugged in. A different perspective is always important because cops tend to see things totally different. It's good to bring other people in who see the community from a different angle and let the officers know that.

**Mayor Avello** asked if we have accidents related to texting more so than speeding.

**Chief Lee** advised we do not track that particular cause. Today driving home he made a car stop and it was for texting. Her attention was so diverted it was hazardous. Does it contribute? He is certain that it does, how much he cannot tell you right now. There are some national averages but we do not have those statistics locally for texting being a contributing factor to an accident.

MOTION: Haynes moved to receive and file the report. Horyna seconded.

**Council Member Craig** indicated the national average is 28%. One out of four accidents has to do with a cell phone or texting.

**Council Member Warren** advised he saw a couple of officers writing tickets on Madison. Madison from time to time becomes a racetrack. If there is an area he would like to see those guys working is Madison. Everybody wants to push that up to 40-45 mph and there are just too many kids on that street.

VOTE: Motion carried 7-0, Bannon absent.

## **FINAL PLAT OF STONE CREEK 4<sup>TH</sup> ADDITION**

**Bud Newberry**, City Planner, presented the staff report.

### **Background:**

- This property is 42.5 acres located approximately ½ mile west of Rock Road and ½ mile north of Patriot and is zoned R-1 Single Family Residential, the appropriate zoning for this development.
- Residential properties lie to the west and south of this parcel with B-3 and I-1 zoning to the east. Firefly Estates, a completely developed large lot (5 acres) residential subdivision lies to the north of this property in Sedgwick County.
- The Final Plat for this addition was approved by the Planning Commission on August 20, 2009, by a vote of 8-0 with 2 abstentions.
- This request was presented to the City Council during the meeting held on December 8, 2009, but was tabled to allow staff time to include additional language in the Developer's Agreement, Restrictive Covenant and on the Plat which will help to guarantee the future maintenance of platted reserves.
- New language which is now contained in the previously mentioned documents includes provisions that make it mandatory for all improvements and structures constructed within the platted reserves during the development process be maintained without alteration, addition or removal without the consent of the city. The city is also given the authority to require that necessary maintenance or repairs be conducted on improvements within the reserves to the satisfaction of the city, or the city can enter upon the property to take corrective actions and recover the costs of such action either by billing the home owners association or by assessing special taxes against all lots in the subdivision.

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

- Development of this property over the next few years should provide a positive impact on the City's tax base.
- As part of the platting process, and as required by the Subdivision Regulations, the developer has submitted the typical petitions as guarantees for the construction of required infrastructure improvements (sanitary sewer, water, storm water sewer, streets, drainage, and sidewalks) totaling \$2,446,000 with 100% of the cost being paid by the Benefit District.
- A small portion of the subject property was assessed a portion of the costs for sanitary sewer in the Stone Creek Addition to the west. A re-spread agreement has been submitted to distribute that existing special assessment equally to 17 of the new lots that will connect to that sewer.

### **Legal Considerations:**

- By approving the proposed plat, the Planning Commission has determined that it conforms to Kansas law and Derby's subdivision regulations.

**Policy Considerations:**

- Following the discussion held at the Jan. 12 City Council meeting about annexation of Town and Country Estates just south of this new plat, staff have begun to amend the scope of the street project to add trees/landscaping to screen several new backyards from existing front yards.
- The applicant complied with all requirements of the Subdivision Regulations including the provision of a Developer's Agreement and a Restrictive Covenant for the use of Reserves.
- Upon Council's approval of the petitions as submitted, staff will submit them to Gilmore & Bell to prepare the corresponding resolutions for Council consideration in the near future.
- This property was annexed into the city on August 26, 2008.

DISCUSSION:

**Council Member Craig** asked if the document has a clause that indicates sometime in the future the street may go through or will the gate be there permanently.

**Mr. Newberry** advised the way the document is stated it says that the emergency gate will stay there until such time in the future Nancy Lane is improved. The only way that will probably ever happen is if the people out there petition to have it improved. Or, another thing that could happen is if the Derby City Council initiates a public hearing to discuss the possibility of taking that gate down at some point in the future. This still leaves an opportunity for the city council to initiate some action in the future. Those are the only two things that would cause that gate to come down.

**Council Member Craig** clarified that it is inferred that improvement means they would go in there and bring the street up to the standard of a city street, including curbs, guttering and storm sewer.

MOTION: Craig moved to approve the Final Plat of Stone Creek 4<sup>th</sup> Addition and authorize the Mayor to sign the plat, re-spread agreement and Developer's Agreement; approve the petitions submitted as guarantee that certain required improvements will be constructed; and instruct staff to record the Developer's Agreement, Restrictive Covenant, Certificate of Petition, Re-spread Agreement, Emergency Access Gate Agreement, and the Final Plat. Nun seconded.

**Council Member Horyna** asked how the screening between the backyards of Stone Creek Addition and the existing front yards of Town and Country Estates would be established.

**Chris Rose**, Baughman Company, indicated at this time during the bid process of the paving for the first phase of Stone Creek, it will be within that. We will do a landscape plan that will be approved by the city and in that bid process.

**Council Member Horyna** asked what kind of screening we can expect.

**Mr. Rose** advised it will be whatever is approved by the city. Trees and berms are what we have discussed at this time.

**Mr. Newberry** indicated we do have language in the petitions for the construction of the streets in phase 1 that will have a berm placed along that street and also some landscaping so it will be well screened.

VOTE: Motion carried 7-0, Bannon absent.

## **PURCHASE OF GENERATOR FOR LIBRARY**

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

### **Background:**

- As construction of the new Library neared completion, staff inquired as to the exact portions of the building that would be powered by the emergency generator.
  - We were advised that it powers emergency lighting and the fire alarm/phone system. It also powers the security panel, the HVAC controls panel, and the air conditioning unit for the server room.
  - Staff questioned whether this complied with the decisions made early in the design process. A review by both staff and the architect followed. Some discrepancy was found between the City and the architect's understanding of the scope of work expected for the generator, resulting in a generator that is undersized and unable to meet the City's expectations during a major power outage.
- During a meeting of the Library Steering Committee on November 7, 2007, the committee discussed the need for a generator at the new Library, along with many other items.
  - The architect's minutes of that meeting indicate that "The generator will be sized to accommodate critical services only. Critical services were defined as HVAC and lighting for the storm shelter, and minimal lighting and computers in the general library."
  - Staff notes reflect the request was for heating, cooling and all lights in the Community Room and minimal lighting and computers in the Library, the server room, and heat to keep the building from freezing. The intent was to allow the Library to continue to operate at a diminished capacity.
  - Staff failed to recognize the discrepancy in the minutes and/or request clarification of what is included in "critical services."
  - Our architects have designed several FEMA shelters and air conditioning is not a requirement unless specifically requested.

- With the information from the minutes, the electrical engineer designed the system as constructed.
- Staff requested a meeting with the architect and engineer to determine what options were available to improve the situation. During this meeting several options were discussed, as follows:
  - With the existing 40 Kw generator unit, during a power outage, we could possibly provide heating and lights in the Community Room, and provide computers at the circulation desk as well as the servers. This would require rewiring portions of the building.
  - Another option would be to add a “bullet plug” where we could bring in a portable generator with a manual switch to provide cooling in the Community Room or heating in the main Library, depending on the time of year. This option would require installing a new electrical panel, availability of a portable generator during a power outage, and someone to manually flip a switch. Since the generators currently owned by the City are often needed to power traffic signals during power outages, a portable generator would still have to be purchased.
  - A third option would require replacing the 40Kw generator with a 100Kw generator. This would provide the level of service identified in the staff notes above with the Library’s diminished capacity to operate.
  - The final option is to have a generator capable of powering the entire building. It was estimated this would take a 600Kw generator with an estimated cost in excess of \$200,000.
- A great concern is the possibility of freezing in the building should an extended outage occur. Also, without air conditioning, a hot Kansas summer day with lots of people in an above-ground storm shelter would likely result in extreme discomfort. Therefore, staff asked the electrical engineer for detailed calculations for the final two options.
- We received the following information:
  - Option 1 – This would allow the Community Room to be serviced with emergency heating, air conditioning and lighting. It would also encompass emergency lighting throughout the entire facility, power to the main server room, and miscellaneous computers as well. This would require a 125Kw generator at a cost of \$75,400 plus costs for removing and replacing concrete as needed.
  - Option 2 - This would put the entire building on emergency-powered heating, air conditioning, lighting and power. This would require a 450Kw generator at a cost of \$160,000 plus costs for removing and replacing concrete as needed. This option includes costs for overtime and the Westar fee to switch over the service on a weekend.
- The concrete work is expected to cost between \$2,000 and \$4,500.

**Financial/Sustainability Considerations:**

- Adequate funds remain in the Library construction account for either option.
- GLMV Architecture, Inc. (formerly Gossen Livingston Associates, Inc.) has offered to provide the design work at no cost to the City of Derby.
- The current generator could be traded in for an \$8,000 credit, or we could utilize it at our new public works facility. In that case, there would be some additional cost for wiring

changes to be determined. Staff recommends using it at Public Works to ensure critical City services continue unimpeded during a power outage.

**Legal Considerations:**

- Council approval is required for these changes to the construction project.

**Policy Considerations:**

- Staff recommends Option 2 to protect the City's investment in the building and to provide continuous use of the entire facility.
- During a natural disaster or other public safety emergency, the City needs a reliable facility to provide the public with information critical to their recovery (FEMA, SRS, United Way, etc.) and to carry on essential City services. Currently, other City facilities are inadequate to fulfill such needs, which is why the storm room was planned for the library originally.

DISCUSSION:

**Council Member Meidinger** asked if we have emergency back up at city hall.

**Ms. Sexton** explained we do have some emergency power in this building for some of the basics. We do have a generator. This building does not have a basement or any kind of a safe room. We made the community room at the new library enhanced concrete with no windows. That is not the case with the building we are in. It's a much lesser building quality here.

**Council Member Meidinger** asked if we had any history of people coming to a public building.

**Ms. Sexton** advised we do. We rely on a couple of churches right now to provide some short-term storm shelter. We have a plan, we have designated places for people to go if needs arise but that plan relies on this new public facility being one of the better built buildings in this town for that.

**Council Member Meidinger** asked if we have ever had anyone come to this building.

**Ms. Sexton** indicated she would not want to be in this building during a tornado or anything of the sort.

**Council Member Meidinger** asked if anyone had ever come after an ice storm or power failure.

**Ms. Sexton** did not think so.

**Council Member Meidinger** indicated we could save a little money and not buy this heavy duty item and use this building since the library will have the big public room. There's all kind of space in this building for an emergency such as an ice storm.

**Ms. Sexton** indicated she believed we would use this building for various purposes. In a disaster situation where you have people out of their homes for a few days for example, you're going to need multiple buildings. Some staff people need to work, some people need to be answering phones and doing the business of the government; clean-up, clearing streets, emergencies, etc.

We need to maybe provide space for other service agencies to help people. If it's a shelter situation you're going to need one for people with pets and one for people without pets, they are going to have to be separated. That is one of the newer things for emergency planning through a lot of learning during recent disasters across the country. Certainly we know we cannot rely solely on other public buildings. This is getting to be a bigger city and we can't rely on the two churches and the basement of the fire station to help any more than two neighborhoods with our 22,000 population.

**Council Member Craig** stated it sounds good to put the super large emergency generator in that building but he would like to see that \$40,000 get paid for the one that's already there. If you're going to use it in the new public works building let's see if you can use some of the money from public works if you're going to put it over there to help pay for that. It's an asset but you have some building funds over there. It has to be worth something to put in that construction project and cut down the cost of the additional \$160,000. Bring it out of that project over there, even if it's \$25,000 - \$30,000. It's less than a year old sitting over here at the library, instead of trading it in for \$8,000 it would be worth more. That is a different project and you could justify bringing money out of that to reduce the overall cost of the big generator.

**Ms. Sexton** agreed and that information was put in the staff report. We asked the folks who bought the generator and included it in their bid package if they would take it back, and they gave us a trade-in value. We of course said never mind. We would rather keep it and use it for another city purpose.

**Council Member Craig** asked if it were plausible to do that. If you are going to put it over there in that project at least let that project pay for that and take that money to reduce the overall cost of the big generator. He is surprised this raised its ugly head at this time considering the finite detail involved in planning the library.

**Ms. Sexton** apologized, it was a misunderstanding. She believes she mentioned it to council some months ago that there was one outstanding issue and we needed to take the time to work through it. It literally involved us going through our notes and everyone in the room going through notes. You may or may not remember the first architect assigned this project left the firm and a different architect took over. That was part of the issue as well; it was different people taking notes versus the person who actually finished the project. Then there was that misunderstanding of what the architect thought we meant when we said we want HVAC and what they thought we meant. We will use the old generator we already own at public works and the \$160,000 is for the new one for the library. We have the money and we just need the approval to do that. She realizes it's more money than some of the other options on the sheet, but the public safety value to the community is certainly well worth it.

**Council Member Horyna** indicated he does not think you can put a cost on a generator until you actually need it. Going through the 2005 ice storm he received several phone calls from cities whose generators either failed or were incapable of performing what they were supposed to do. Having this available for us in emergency situations to operate the entire library is a great benefit to the citizens. He would like the city to look into a maintenance program for this

generator. If we are going to spend this kind of money on a generator he really wants to be sure it's maintained.

**Council Member Staats** addressed the question about people utilizing city facilities during storms. Years ago, prior to 2002 at the old police department, anytime the tornado sirens would go off it was amazing how many people would show up. We had to have someone go back to the station to open doors so people could get in. People knew it was there. They'd get phone calls and even after they had moved into the new building people would call wanting to know where to go. At that time they developed a list of churches to go to. Inherently, if there is a disaster people turn to the city and the government to find out what they need to do, and they go to the government facilities. He was in Haysville right after their tornado and it was a mess. You have to have some stability in your government to keep going on. People might be living there. You never know what's going to happen. You might need air conditioning if it's a 100° day.

MOTION: Staats moved to authorize the City Manager to sign all necessary documents to purchase a 450Kw generator to provide emergency power to the entire library facility for \$160,000 plus the actual costs for removing and replacing concrete as needed, and re-purpose the existing generator at the new Public Works facility. Horyna seconded.

**Council Member Warren** advised this is a lot of money and the odds of us ever needing it are extremely light. The lesson that went through Haysville, and that wasn't the biggest tornado that could have gone through, is if that ever hit us and we didn't have it we would kick ourselves. It's an insurance policy that you hate to have to do but if we don't we would be sick if we didn't.

**Council Member Haynes** asked about the maintenance. Will public works maintain that or do we need to amend the motion to include funding for maintenance.

**Ms. Sexton** indicated there is no need to amend the motion. Preventative maintenance will be in your annual operating budget, so that's built in. We maintain the generators we have now and will have to add this one on to that list.

VOTE: Motion carried 7-0, Bannon absent.

## **FINANCIAL ADVISORY SERVICES AGREEMENT**

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

### **Background:**

- In March 2006, the City Council authorized an agreement with Piper Jaffray & Co. for financial advisory services.
- The firm was selected based upon a combination of factors including experience, cost, and approach to the services to be performed. The staff of Piper Jaffray has an extensive

background in public finance and experience serving a wide spectrum of cities in the region.

- The 2006 contract expired December 31, 2009.
- During the past three years, the firm has provided excellent service, and staff recommends that the relationship continue for another three years.
- Gregory Vahrenberg, Managing Director of the Piper Jaffray office that has served the city, has provided a new contract with the same terms as the previous contract with the exception of changes in the fees.
- The proposed contract would expire December 31, 2010 with the option of renewal for two additional one-year terms.

**Financial/Sustainability Considerations:**

- Although the fees contained in the proposed contract reflect an increase from the 2006 contract, staff compared the proposed fees to those contained in the proposals of the two other firms that were highly rated during the 2006 process.
  - George K. Baum and Springsted Inc. were the two other firms that were presented as options for the provision of financial advisory services.
  - The new proposal of Piper Jaffray is competitive and in some cases still lower than the other proposals.
- The source of funds for financial advisory fees is typically bond proceeds as the fees are included in the costs of issuance of the bond issue.

**Legal Considerations:**

- The proposed contract was reviewed by the city attorney and found to be legally sufficient.

**Policy Considerations:**

- City purchasing procedures authorize negotiation in lieu of competitive bidding for professional services.
- Staff recommends entering into this contract without seeking competitive bids due to the positive working relationship that's been developed the past three years.
  - It is important to develop and maintain a trusting relationship with these professional advisors, much like our relationship with bond counsel.
  - In addition, the fees proposed by Piper Jaffray are reasonable in comparison to the marketplace, and no particular advantage can be found in spending the staff time required for an RFP process.

MOTION: Haynes moved to authorize the City Manager to execute the Professional Advisory Services Agreement with Piper Jaffray, in substantially the form presented. Meidinger seconded.

VOTE: Motion carried 7-0, Bannon absent.

**2009 PERFORMANCE MEASUREMENT REPORT TO THE COMMUNITY**

Stephanie Knebel, Assistant City Manager, presented the staff report.

**Background:**

- In 2007, the City of Derby embarked on a cutting-edge performance measurement movement. Derby’s 360 Performance Program was innovative in its approach of getting a full perspective (a full 360 degrees) in the development of new measures by including input from citizens, businesses, elected and appointed city leaders, and city staff.
- Each year beginning in 2008, a survey is sent to residents to gauge their views on city services.
- In August 2009, Citizen Satisfaction Surveys were mailed to 400 residents in the City of Derby. Addresses were randomly selected from the utility billing database to ensure each ward received 100 surveys. There were 101 respondents equating to a 25% return rate.
- This is the second annual report to the community.
- The look and content of this report will continue to change as our community changes, but the purpose will remain the same: to ensure that citizens are informed about the performance of their city departments.

**Financial/Sustainability Considerations:**

- Originally, this performance measurement program began using a \$10,000 grant from the National Center for Civic Innovation. Maintaining the program each year has become a routine part of doing business and requires no additional revenues.
- The citizen survey is performed annually at an estimated cost of \$500.

**Legal Considerations:**

- None.

**Policy Considerations:**

- Performance measurements can be effective tools to prioritize goals and to align services and budgets to those goals.

DISCUSSION:

**Council Member Horyna** advised that on May 8<sup>th</sup> we assisted the City of Towanda with storm cleanup. Not long after that he spoke with the City Superintendent of Towanda and he had nothing but great things to say about Derby. He was very pleased with how professional our staff was and how thorough and quick they were. That goes to show how wonderful our community is and how we represent outside our city limits.

MOTION: Haynes moved to receive and file the report. Horyna seconded.

VOTE: Motion carried 7-0, Bannon absent.

**INTERACTIVE COMMUNICATION AMENDMENTS TO KANSAS OPEN MEETING ACT**

**Phil Alexander**, City Attorney, presented the staff report.

**Background:**

- The Kansas Open Meetings Act (“KOMA”), K.S.A. 75-4317 *et seq.*, is designed to ensure that meetings of public bodies such as the City Council are open to the public.

- Technological innovations such as e-mail and instant messaging have changed the way public officials communicate.
- The Kansas Legislature responded in 2008 and 2009 by amending KOMA to make specific provision for electronic communication that is “interactive.”
- KOMA now defines “meeting” to include “interactive communications that:
  - Occur in a series;
  - Collectively involve a majority of the membership of the body or agency;
  - Share a common topic of discussion concerning the business or affairs of the body or agency; and
  - Are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the body or agency.

**Financial/Sustainability Considerations:**

- None

**Legal Considerations:**

- The term “interactive communication” includes instant messaging, chat rooms and any similar forum that allows contemporaneous exchange of messages.
- Interactive communication would include e-mail only if it is used to subvert the goals of KOMA.

**Policy Considerations:**

- This statutory change should not affect the way we operate in Derby because we already treated interactive communication media as if they were subject to KOMA.

DISCUSSION:

**Council Member Craig** commented that this is a significant change. Before it, the term “quorum” which in our case is five, limited it to two people. Now we are talking about four. The way he read this “quorum” has been deleted so the majority is now five, is that correct? You are legal if you have four people talking about a particular subject?

**Ms. Sexton** advised that is correct. You might remember the last time we brought to you updates to the governing body manual was August of 2008. That followed this 2008 legislative session. Some of you aren’t going to remember this. A lot of us thought the legislature kind of made a mistake and we expected them to come back in 2009 and do some more changes. In August of 2008 this body agreed to keep the prior rules so we are still operating under those old rules because we didn’t want to change and then have to change back if they changed it the next year. You can see from his write up here that they made some more changes in 2009 but they did not go back and change the quorum thing. Derby is one of the rare forms in this state that has nine council members. Most cities don’t have anywhere near that number, most have five, some have seven still, but nine is about the biggest. She doesn’t think they intended per se to make it more liberal for Derby, but that is the consequence. You all have the option of following this to the letter of the law. Or if you wanted to stick with the old way and continue to do two people on the council could meet with the mayor if you wanted to. So a total of three but only two total council members or any modification of that. It could be three, or you could go with the law, which now allows four.

**Council Member Craig** asked if we put that in writing as a policy of this council.

**Ms. Sexton** advised it was in the governing body manual.

**Council Member Craig** indicated he hadn't reviewed it lately. He asked which takes precedent right now, the law or what we agreed upon as a council.

**Ms. Sexton** indicated the policy the council adopted is still in effect. She is working on an update of this which is part of the reason of bringing this item today. She intends to bring these amendments back to the next council meeting to make that decision. You don't have to make that decision tonight, but any advice you could give tonight or after this meeting at some point as we are working on it would be helpful.

**Council Member Craig** indicated most of the council thought the legislature had made a mistake.

**Ms. Sexton** advised that when they think about their examples they think about a five-member county commission or a three member county commission or a five-member city council. She is just guessing but she doubts that very many of them thought about four people on an eight member council.

**Council Member Warren** stated that when we saw a list of people going on various boards and he thinks we do a pretty good job of letting those folks know, we tell them what the rules are. Do we go back on a regular basis and remind our various boards and committees what the rules are in regards to open meeting laws?

**Mr. Alexander** advised he has made presentations to several boards and committees but he has not done that on a regular basis. He does alert the supporting staff of changes that might affect their particular boards.

**Ms. Sexton** indicated we are not asking Phil to do all that. In yesterday's staff meeting we reviewed it with senior staff and reminded everyone that has a board that they are going to have new members coming on with the April appointments, and a lot of them have those every year. That is the appropriate time to brief your board so you are updating the old members as well as the new members. About once a year we like for the staff handling that to brief them.

**Council Member Haynes** indicated that we in no way want to even give the perception we are doing something we shouldn't be doing. He doesn't know that he would want to go with the ability to have four council members meeting. He likes the old governing pamphlet as far as that goes. If we are going to do an update to that in the next couple of council meetings he would like to hold off on receiving and filing this report. He doesn't know how we need to do it or if we need to do anything before we review that. We in no way want to give the perception of wrongdoing. He would like to hold off on this report until we are presented with the revisions.

**Ms. Sexton** advised when she updates the draft she will get it out to the council to look at. That is the key policy question, and there will be a vote for the next meeting. Tonight, all you are

getting is briefing from your attorney on the law. Receiving and filing the report does not commit you to any change. As we stated a minute ago, you can always adopt rules that are stricter than the state law, you just can't violate the law. We are operating for several years now under the adopted policy.

**Council Member Warren** would appreciate the opportunity to think about it. The aspect of going to four makes no sense, that would be way too loose. The possibility of three is something he would like to explore the pros and cons of before he made a decision.

MOTION: Warren moved to receive and file the report. Craig seconded.  
VOTE: Motion carried 7-0, Bannon absent.

**ADJOURNMENT:**

MOTION: Craig moved to adjourn at 9:24 p.m. Haynes seconded.  
VOTE: Motion carried 7-0, Bannon absent.

ATTEST:

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Dion P. Avello, Mayor

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