

**APPROVED
REGULAR COUNCIL MEETING
June 23, 2009
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig
Vaughn Nun, Heath Horyna
Chuck Warren
Tom Haynes

COUNCIL MEMBERS ABSENT:

WARD I
WARD III
WARD IV

Jim Meidinger
Cheryl Bannon
Mark Staats

Flag salute was led by Council Member Chuck Warren. The invocation was led by Pastor Tom Wilson, St. Andrews Episcopal Church.

**CONSIDERATION OF
MINUTES**

Minutes of the June 9, 2009, Regular Council Meeting.

MOTION: Craig moved to approve minutes of June 9, 2009 Regular Council Meeting. Haynes seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

PUBLIC FORUM

Lisa Spillman advised this upcoming week will be Parent's Week for the Derby Twins. We have a team of approximately 28 players who bring their parents in and have the opportunity to visit our city, take in some baseball games and enjoy some recreational activities that we have planned for them while they are here. Information regarding parent's week can be found on the Derby Twins website. There is a host of activities that will go on during the time these parents are visiting. This is our opportunity as a community to showcase why we are so proud of our city. These parents come from as far as California and Hawaii and they get to experience first hand our fine community and the things we have to offer. We will have several games during that week, including July 1st, 2nd, 3rd, 4th, 5th and 7th. Certainly there might be a time when you can catch a great game of high quality college baseball during that time. She thanked the council for sponsoring this entire week. It is because of the ACE grant we received from the City that we are able to offer free admission to come to the games, including the parents while they are here. It's very impressive to the parents to see the community support that we have.

Council Member Craig announced the Kiwanis Club will be having their annual 4th of July pancake feed on the 4th at 7:30 to 11:30 at the DRC.

Mayor Avello advised that while riding around town in the older sections he has seen a lot of water coming up from underneath the surface. His concern is, are we getting any damage from all the water that has accumulated under the streets?

Robert Mendoza, Director of Public Works indicated there is no doubt there is a lot of moisture in the ground right now and that moisture is coming up through the base of our streets. You will see water for quite awhile. There are cracks that go all the way down through the surface, through the base and water is coming up. Does that cause damage? Yes it does. Most of the streets that you are seeing are on schedule for repair or replacement through our pavement management plan. We track and watch them, we notice just like everyone else and we are paying very close attention. Water is not good when it comes out of pavement.

PROCLAMATION

Mayor Avello declared July as Parks & Recreation Month in the City of Derby.

Frank Seitz, DRC Superintendent of Recreation accepted the proclamation. He has been around a while in this community and there has never been a better time to work with city staff in his estimation than there is right now and he appreciates the efforts of the council, city staff and Ms. Sexton.

PRESENTATION

Business Appreciation Month Award Winners.

Allison Moeding, Director of Economic Development introduced local businesses who were awarded a merit award by the State of Kansas as part of Business Appreciation Month. This is an annual event that goes on statewide with the intention of recognizing the value that local business has and the good things they do for our local economy and the things they do to make us good communities. She introduced John and Linda Bode from BRG Precision Products who received a merit award in the manufacturing category. The second business nominated was in the service category: Branstetter and Sparks, represented by Drs. Sparks and Carr and their staff. She also introduced John McCullough from Pizza Johns who also received a merit award and is celebrating his 40th year in business. She noted all of the recommendations were made by the Economic Development Board, who were unable to attend tonight.

RESOLUTION AUTHORIZING THE SALE OF G.O. BOND SERIES 2009-A

Jean Epperson, Director of Finance/City Clerk presented the staff report. She advised that when the motion is made that the description 2009-A is changed to 2009 A&B series.

Greg Vahrenberg, Piper Jaffrey provided information regarding the bonds. The new Build America Bond program is something that just became an option to cities and other issuers of municipal bonds earlier this year. We are starting to see a growing number of agencies take advantage of this new program. This new taxable bond issue will actually carry a higher stated interest rate on the bond but in order to create a market for taxable bonds for state and local governments, the federal government has agreed to pay 35% of the interest expense. You pay a higher interest rate on your bond issue; however 35% of the interest is now paid by the federal government and not by the city. As we look in the bond market we now have options for cities, counties and school districts to consider and we can compare the interest rates at which you would sell a tax free municipal bond which is still an option and we are completing those issues and investors are buying those tax free municipal bonds. We can now compare that to the taxable bond market, what those interest rates would be and after we factor in that federal payment, what the net borrowing cost for the city would be. Using the Build America Bond program seems to be a clear and sizable benefit to the city, providing approximately a .4% savings which may not seem like much but when you put that interest rate differential on a \$10 million bond issue over a 20 year period the savings ends up being about \$520,000 for the city. That is a savings to the tax payers of the city because you are paying less interest expense. In looking at our estimated interest rates that is a fairly close estimate but maybe even a little bit of a conservative estimate. We feel there is a very sizable savings to the city by using the Build America Bond program. The reason for dividing the issue into two series is that the Build America Bond option is only available for new construction projects for which you have not completed a temporary note financing. Part of the projects that are being financed in this issue are benefit district projects that were initially financed with temporary notes and do not qualify for the Build America Bond program so those will be left as a tax exempt bond issue. We recommend that the balance of the projects that do qualify for Build America Bonds be financed through this new program which we believe creates a sizable savings for the taxpayers of the city. The sale date will be July 14th. If you authorize the resolution this evening we will move forward and put together the document that is presented this evening and will be sent out to potential bidders. On the day of the bond sale we will give bidders the option to bid either a tax exempt interest rate or a taxable interest rate for that Series A bond issue which could very well be a Build America Bond issue. We feel that based upon current interest rates the lowest bids would be submitted using the new Build America Bond program but on July 14th we will let the market and bidders decide whether they can be more aggressive on tax exempt or the new Build America Bond issue.

Background:

- The proposed action, which is the authorization to market bonds, is the final step before the actual approval of the sale of general obligation bonds.
- General Obligation Bond Series 2009-A will provide permanent financing for special assessment internal improvement projects within the City of Derby as follows:
 - Anderson Farm Commercial 2nd Addition
 - Derby Downs Addition
 - Easton Family tract
 - Stone Creek Addition & 2nd Addition
 - The Oaks Addition Phases XIC and XIA
 - Tall Tree Addition

The “pay-in” period for advance payment of special assessments associated with this bond issue ended Wednesday June 17th at noon. One prepayment was received of \$1,948.76.

- The “pay-in” period for advance payment of special assessments associated with this bond issue ended Wednesday June 17th at noon. One prepayment was received of \$1,948.76.
- The bond sale will be held July 14, and the bids will be presented during the regular council meeting that evening.
- The proposed resolution provides authorization for redemption of a portion of Temporary Notes Series 2008-1 and a small portion of the Temporary Notes Series 2009-1 for the Tall Tree Sanitary Sewer Pump Station.
- In addition to the special assessment projects, the bonds will provide permanent financing for three projects in the capital improvements plan (CIP): \$4,030,000 sanitary sewer interceptor, \$4,000,000 public works facility, and \$2,100,000 for reconstruction of Buckner Street.

Financial Considerations:

- Cities now have the opportunity to issue taxable bonds under the American Recovery and Reinvestment Act of 2009 (ARRA) which is an alternative to traditional tax exempt government bonds. The taxable bonds (Build America Bonds) will result in a higher interest rate, but the city will receive federal payments equal to 35% of the annual interest payments which can result in a lower net interest cost when compared to tax exempt bonds.
- The resolution authorizes a combination of tax exempt and taxable bonds to obtain the lowest interest cost to the City of Derby. The special assessment bonds will be tax exempt as they are not an eligible issuance under the Build America Bond regulations. The CIP projects are new construction, which meets the Build America Bond requirements, so the projects may be split between the two series of exempt and tax exempt bonds.
- The special assessment bonds are being spread over 15 years and will mature December 1, 2024. The bonds for the CIP projects are to be repaid over 20 years.

Legal Considerations:

- The legal work for this process is being performed by the City’s bond counsel, Joe L. Norton of Gilmore & Bell. Mr. Norton and his staff worked with City staff to determine the timeframes and are preparing all of the necessary legal paperwork, in strict adherence to state law, which ultimately governs the special assessment process.
- The job of calculating the final costs, notifying and mailing notices to property owners and the "spreading" of specials was a combined effort of City Community Development staff and the City’s Financial Advisor, Greg Vahrenberg of Piper Jaffrey Company, and Charley Young of the Public Finance Group.
- The resolution provides for approval of the Preliminary Official Statement in substantially the form presented which outlines the details of the offering to prospective buyers of the bonds.

Policy Considerations:

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

RESOLUTION NO. 29-2009
RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL
OBLIGATION BONDS OF THE CITY OF DERBY, KANSAS.

DISCUSSION:

Council Member Warren appreciates the fact from a municipal standpoint that we are receiving a benefit to help our taxpayers. Why should he as a federal tax payer, looking at the federal government putting into this and putting our federal government deeper into debt. Is there a benefit on the federal level?

Mr. Vahrenberg stated that when you look at the impact on the federal level it is more of a neutral impact than you might imagine on the surface. If the City of Derby sells a tax free municipal bond issue, the IRS will not receive any taxation on the interest. If you sell a taxable bond issue, investors will pay income tax to the federal government and depending on your tax bracket the percentages will vary. The income tax they receive will be the amount they will then be paying out in terms of this federal subsidy. It may not be an equal impact on the federal government using one program or another but the net effect will be a minimal difference on each of these Build America Bond issues because they are not receiving income taxes or they are rebating income taxes that they do receive.

Council Member Craig thanked Mr. Vahrenberg for providing creative options for the sale of the bonds.

Council Member Nun asked for an explanation of the mechanics of the federal government giving us that 35%.

Mr. Vahrenberg advised that when you sell a Build America Bond issue, or taxable bond issue, you sell bonds at a higher interest rate than you receive back that federal subsidy. The federal government right now requires that we submit a one page form stating the City of Derby on December 1, 2009 has a payment of "x" dollars and the federal government is to pay 35% of that. That form is an IRS form that needs to be submitted to the IRS, it is a little bit cumbersome and may take 30 minutes at most to fill out the form and mail it in. There has been talk by the IRS that they plan to automate that process in the future and there have been comments made that that may occur next year. Right now there is an additional requirement to submit an IRS form 2 times per year to request the federal payment coming in to the city. That would be the responsibility of the city unless they engaged a trustee to help with that process. We have helped several other issuers prepare that form, it's a very simple form to fill out. The real challenge is to make sure when you go through the budget process or your day to day activities that you remember to get that form submitted.

Council Member Nun stated that in reading about the Build America Bond program it appears there are some additions made to the preliminary official statement that normally we don't put in, is that correct?

Mr. Vahrenberg advised that is correct. There is some additional disclosure language that we provide to the potential bidders and investors relating the Build America Bonds, how the program works and the impact on the taxation of the interest to the investors. That information is language you would not have seen in previous issues that has been added for this issue.

Council Member Craig asked about the 2009 estimated assessed valuation of \$189 million and for the end of December that is up over 5%. How strong are your thoughts about that, that's a pretty healthy increase.

Mrs. Epperson explained that we have received verbal estimates from the county that they are seeing a 5.5% growth in our valuation.

Council Member Craig indicated that is pretty aggressive.

Ms. Sexton stated we are highly confident in that number. Derby is going to be a little bit different from many other cities around. You can thank the commercial construction that has occurred. The apartments will be on next years valuation but this year is picking up Target, Dillon's Marketplace and all those retail stores at Marketplace as well as some other projects.

Council Member Craig stated it's basically being carried by commercial.

Ms. Sexton stated there is new housing growth as well. A lot of current commercial and residential is not as strong as it has been; 2-3% each year is nice. Her house is 0% this year and it hasn't been that long since she moved to Derby. They are telling us about 85% of the current residential was flat, that's why we are not at the 10% we were last year. Five and one-half percent sounds real good until you remember we were double that last year.

MOTION: Warren moved to approve a resolution authorizing the offering for sale of General Obligation Bonds, Series 2009-A & B, of the City of Derby, Kansas. Craig seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

REPORT ON ECONOMIC DEVELOPMENT INCENTIVES

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

Background:

- Currently, the City has three economic development incentive agreements (EDX agreements) in effect with local companies.

- Our most recent incentive agreements, with Derby Hotel Inc. and LakePoint at Stone Creek, will go into effect in the calendar year after the year in which the bonds are issued, in 2009 and 2010 respectively.
- The Hampton Inn will open in mid-July, while LakePoint expects to break ground late in 2009. A letter from LakePoint providing an update on the project is included with this report.
- State statute requires verification be provided to Sedgwick County stating that companies continue to meet the criteria set forth in their EDX agreements, to ensure that their eligibility for tax exemptions continues.
- Mid Continent Controls:
 - Mid Continent Controls was granted a 100% property tax exemption for 10 years in May 2001. The company agreed to create 66 new jobs over the 10-year period and construct a 20,000 SF building at 901 N. River in the Derby Business Park, along with new equipment valued at \$250,000. The building was completed in 2002, and the first year the exemption was given was 2003.
 - Currently, Mid Continent Controls has 47 employees, down from 64 employees one year ago but an overall increase of 25 employees since the start of the project. (38% of target employment.)
 - The company, which manufactures in-flight entertainment and cabin management systems for business jets, is affected by the recent problems plaguing general aviation. Restructured credit markets and stockholder scrutiny have resulted in the inability of corporations to obtain reasonable credit, making them unable to keep commitments to purchase business aircraft placed on order prior to the financial collapse. Their responsibilities to their stakeholders to provide financial growth remains the precedence over discretionary expenses, and cost reductions are necessary to keep these corporations viable for the future. This, in combination with the expense of debt, has led the Business Aviation industry to experience order cancellations at rates never seen before.
 - Owner Rick Hemphill forecasts the low point in the 1st quarter 2010 and flat growth for the following 8 quarters.
 - Not unexpectedly, previous plans to expand the manufacturing portion of the building will not move forward until the general aviation industry begins to recover.
- BRG Precision Products:
 - BRG Precision Products (BRG) was granted a 100% property tax exemption for 10 years in June 2005. The company agreed to create 103 new jobs over the 10-year period and construct a 40,000 SF building at 600 N. River in the Derby Business Park. The building was completed in March 2006.
 - Currently, BRG employs 50.5 FTE, down 3 jobs from 2008 but an overall increase of 25 jobs (24% of target employment).
 - The company continues to focus on its core business of custom electronic clocks, and continues to see success with development of wireless wide-area mass communication systems (both text and audio-based) and other related wireless technologies. BRG now works with several universities to provide wireless

messaging services, including the University of Texas, The Citadel, DePaul University, Tarrant County Community College, and Wichita State University.

- Previous plans to expand into additional warehouse space in 2009 and utilize existing basement office space to house added administrative staff in marketing, sales and support are on hold at this time.
- Family MedCenters, P.A.:
 - Family MedCenters, P.A. received approval in May 2005 for \$3.5 million in Industrial Revenue Bonds and a 100% property tax exemption for 5 years, with the option for a 5-year extension. The company agreed to create 15 new jobs over a 10-year period and construct a freestanding 9,800 SF ambulatory surgery center at 1101 N. Rock Rd. The bonds were issued in 2005, and the building was completed in July 2006. The first year of the exemption was 2006.
 - Currently, the surgery portion of Family MedCenter's complex employs 11 full-time and 10 part-time individuals for a total of 16 FTE. These positions include a business manager, clinical manager, front office clerk, 5 technicians and 14 nurses. Of these 16 FTE positions, 13 are filling new positions created by the project. (87% of target employment.)
 - The use of the surgery center continues to grow. In 2008, there were more than 2,500 procedures in the surgery center. To date in 2009, they have completed more than 1,400 procedures including colonoscopies, upper endoscopies, pain management procedures and various types of surgeries such as hernia repair, gallbladder, tonsillectomy, spinal taps, orthopedic procedures, and gynecological procedures.
 - As planned last fall, they expanded the types of surgeries done at the facility to include some orthopedic procedures and have recently added another surgeon able to perform orthopedic surgeries. A total of 26 surgeons are credentialed for the use of the facility.

Financial/Sustainability Considerations:

- None at this time.

Legal Considerations:

- None.

Policy Considerations:

- At this time, all three companies have made progress toward the job creation requirements outlined in their respective agreements.
- Given the state of the current economy, it is a possibility that at least one recipient (MidContinent Controls) may not be able to fulfill the terms of its agreement by 2013. As the ending date of the agreement draws closer, staff will present options to the City Council to respond to the shortfall, if one should occur.

DISCUSSION:

Council Member Haynes thanked the companies mentioned this evening. They have created 113 new jobs for the citizens of Derby, that's a plus. He wants to see that kind of business, especially in our industrial park. He wants to see more of the companies like Mid Continent Controls and BRG come to Derby and create employment for the citizens of Derby.

Council Member Craig asked about the letter from Lake Point. He doesn't get a real warm fuzzy feeling from Lake Point. He knows they have had some problems and reorganization and setbacks. He has asked the city manager to look into the planning commission and the site plan. Are they within the time criteria for starting their building? He is of the opinion that if this continues and we don't see any progress by July of next year we tell them they have to reapply for it because this has been dragging on for quite a while. He understands the deal about hiring people and trying to attract residents for a facility of this size but he has not received a real warm fuzzy from this letter. He knows they have some issues and are replatting but there has been no action so the city manager he hopes is going to look into that and check with the planning commission. If he doesn't get some idea of what is really going to happen and when they are going to turn dirt he would suggest they reapply in July of next year.

Ms. Moeding asked for clarification if Mr. Craig was referring to reapplying for the incentives or the site plan process.

Council Member Craig indicated he was talking about the incentives. We set down the incentives for them as the front runner for winning those incentives. If that doesn't happen then there is no reason to continue down that road. Pick a date and if you don't have something by then you will have to come back to us and reapply

MOTION: Craig moved to receive and file the report. Haynes seconded.
VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

SKATE PARK BUILDING LEASE

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

Background:

- On-site supervision of the Derby Skate Park would be helpful for enhanced customer service and park maintenance. Shortly after the park opened in September 2006, supervision was accomplished by an agreement with a private business engaged in skate board repair and concessions. That arrangement ended when the business owner got a full-time job elsewhere.
- Since then, Public Works has worked with several volunteers and members of the community interested in the success of the park to find ways to maintain the park and provide some adult supervision at the park.
- A semi-staffed site would benefit the longevity of park equipment and the perceptions of safety among park patrons.

- Michael Cavanaugh wishes to locate his concession business in the office space located within the Skate Park building. A lease has been negotiated for in-kind services that will be provided in lieu of rent by Mr. Cavanaugh.

Financial/Sustainability Considerations:

- No cash rent is contemplated; consideration to the City comes in the form of in-kind services.

Legal Considerations:

- The proposed lease agreement protects the City’s interest in the property while minimizing the need for oversight by staff of the Public Works Department.
- The City reserves the right to terminate the lease at any time should the lessee fail to comply with its terms.
- The property is zoned appropriately for the use contemplated.

Policy Considerations:

- This public/private partnership is intended to meet the goals of both parties in a mutually beneficial manner.
- In exchange for use of the City’s space, Mr. Cavanaugh will provide personnel on site to manage the park and enforce posted rules, as follows:
 - Weekdays during school: 3:00 – 9:00 p.m.
 - Weekdays during summer: noon – 9:00 p.m.
 - Saturdays/Sundays: noon – 9:00 p.m.
- In addition, Mr. Cavanaugh will clean and resupply restrooms, provide a telephone for park patrons, and collect and dispose of trash daily, among other duties described in the lease.
- Insurance requirements established by the lease agreement have been satisfied.

DISCUSSION:

Council Member Craig commended Mr. Cavanaugh for taking this on, it is a big challenge. He did not notice it until school let out, but once school was out he started to notice many skate boards were around town. This is a good deal for the city.

MOTION: Craig moved to authorize the City Manager to execute a Lease Agreement for the skate park facility with Michael Cavanaugh, d/b/a 3:16 Sk8 Park Ministry, in substantially the form presented. Nun seconded.

VOTE: Motion carried 4-1, Warren abstain, Meidinger absent, Bannon absent and Staats absent.

PURCHASE OF FOUR

POLICE PATROL VEHICLES

Robert Lee, Chief of Police presented the staff report.

Background:

- The 2009 budget authorizes \$98,000 for the purchase of four (4) police patrol vehicles.
 - Invitations for bids were received from four dealerships.
 - Eck Ford \$24,437 per unit
 - Steven Ford-Mercury of Augusta \$24,447 per unit
 - Bob Howard-Downtown (OKC) \$25,244 per unit
 - Davis-Moore Dodge \$22,268 per unit*

** The bid submitted by Davis-Moore Dodge did not meet specifications. An additional \$3,500 per unit would be required to meet specifications for paint and spot lamps.*

- Rusty Eck Ford was the lowest responsive bidder at \$24,437 per unit.

Financial Considerations:

- The purchase price for all four cars is \$97,748.
- The purchase price is within the amount authorized in the 2009 Vehicle Replacement Plan.

Legal Considerations: None.

Policy Considerations:

- The City of Derby Purchasing Policy was followed and requirements met.
- Bids have been reviewed and approved by the Bid Board.
- Staff recommends acceptance of the low bid.

DISCUSSION:

Council Member Horyna asked if this is replacing units or is it an additional four vehicles.

Chief Lee advised it would be a replacement. There are four that have between 118,000 and 129,000 miles that would be taken out of the fleet.

Council Member Horyna asked if the prices include trade in value.

Chief Lee explained those are typically sold at auction.

Council Member Haynes asked if we are going to keep those vehicles or sell them at auction.

Chief Lee advised they would be replaced. Maintenance for those vehicles is beginning to be excessive and due to mileage they will be gone from the fleet.

MOTION: Nun moved to approve the purchase of four 2010 Ford Crown Victoria Police Interceptor vehicles in the amount of \$97,748 from Rusty Eck Ford. Horyna seconded.

Council Member Craig asked if these vehicles come outfitted with paint, etc.

Chief Lee explained you will hear a lot of what is referred to as a police package. What that includes is extra heavy duty suspension, enhanced braking, electrical harnesses that you wouldn't have on normal vehicle to accommodate computers, camera systems, lights on top of the cars, etc.

Council Member Craig asked if they had to be repainted.

Chief Lee advised they will come factory black and white.

Council Member Horyna asked about a vibrating horn system that will get the attention of the vehicle in front of them if they are not paying attention.

Chief Lee advised these vehicles will have an air horn system that is an attention getter.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

PURCHASE OF FIRE SQUAD VEHICLE

Brad Smith, Derby Fire Chief presented the staff report.

Background:

- A new fire squad truck and necessary equipment were approved in the 2009 budget.
- This truck would be placed at Station #1, which currently does not have a squad.
- Squads are used to make medical calls, inspections and general purpose use.
- Squads are more economical to operate for 85% of the calls.

Financial/Sustainability Considerations:

- A request for bids was sent to six vendors recognized as manufacturers of this type of apparatus. Three bids were received, with the low bid of \$107,738 from Hays Fire Equipment of Hays, Kansas.
- After consultation with the City Attorney, staff recommends accepting a deduction of \$3,138 from the bid price for waiving the required performance bond, which reduces the cost to \$104,600.
- \$125,000 was budgeted for the purchase of the apparatus and necessary equipment in 2009.
- Equipment for this truck including two self-contained breathing apparatus, mobile data terminal with modem, mobile radio, fire extinguishers, hose, nozzles and hand tools will need to be purchased with the remaining funding in the project budget.

Legal Considerations:

- All applicable procurement procedures for solicitation and analysis of bids for this equipment were followed.
- Upon acceptance of a bid, a contract for purchase of the equipment will be prepared and executed.

Policy Considerations:

- Bid Board reviewed the bids and recommends accepting the low bid.

DISCUSSION:

Council Member Horyna asked about the estimated cost of the additional items needed for the truck.

Chief Smith advised it is approximately \$19,000.

Council Member Craig asked about waiving the required performance bond.

Phil Alexander, City Attorney advised he and Chief Smith have discussed that in some detail. It is common in many of our contracts to require a performance bond, however that bond is more designed for our typical construction project where if something goes amiss and the contractor can't complete the work we would turn to the bonding company to complete the work. In this case payment won't be made for the equipment until after it is delivered so our risk is minimal and the savings is substantial. It is his recommendation under those circumstances that we could waive that performance bond. He also recommended that we not pay in advance for the chassis.

Council Member Craig asked if there were an estimated time to get this on board.

Chief Lee advised new construction begins January 29th, with 8-10 weeks waiting for a new chassis and an additional 150-180 days waiting for the construction of the box. We will be into next year by the time we get it.

MOTION: Craig moved to approve expenditure of \$104,600 for a 2010 4-door, one-ton squad apparatus from Hays Fire Equipment. Haynes seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

**INTERLOCAL
AGREEMENT AMONG
SEDGWICK COUNTY
FIRE DEPARTMENT**

Brad Smith, Derby Fire Chief presented the staff report.

Background:

- The members of the Sedgwick County Regional Fire Chiefs Association recognize the importance of developing agreements in advance so that we are ready to respond to assist each other in a more efficient and timely manner.
- While many municipalities in Sedgwick County enjoy agreements with various departments, this agreement will incorporate all Sedgwick County departments into a single contractual arrangement.
- Relationships among the Fire Departments located in Sedgwick County will be improved.

Financial/Sustainability Considerations:

- Cooperative agreements such as this one necessarily reduce the resources required to be maintained by individual cities and other departments.
- The proposed agreement will not materially alter the frequency or magnitude of response by the Derby Fire Department to emergencies in other jurisdictions.

Legal Considerations:

- Interlocal agreements are authorized by K.S.A. 12-2901 *et seq.*, and are subject to approval by the Kansas Attorney General.
- The proposed agreement describes the circumstances under which either party will respond to an emergency in the other’s jurisdiction, provides the legal basis for such response, and describes the parties’ rights and responsibilities in the event of a joint response.

Policy Considerations:

- Mutual assistance among neighboring entities allows participants to make maximum use of available emergency response resources.

MOTION: Craig moved to approve an interlocal agreement among Sedgwick County municipalities and fire departments and authorize the Mayor to sign the agreement in substantially the form presented. Warren seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

**AUTOMATIC AID
AGREEMENT WITH
SEDGWICK COUNTY
FIRE DIST. #1**

Brad Smith, Derby Fire Chief presented the staff report.

Background:

- The Derby Fire & Rescue Department currently works with Sedgwick County Fire District #1 under a mutual aid agreement for structure fires.
- In 2008, SCFD #1 approached Derby about changing our agreement to an Automatic Aid agreement.
- A mutual aid agreement requires that departments ask for assistance. An automatic aid agreement sets up parameters for automatically starting aid for defined emergencies when the call is received at 911, rather than requiring a decision to be made and a request initiated by fire personnel.

- An Automatic Aid agreement benefits the response capabilities of both parties and also improves the ISO rating for some SCFD #1 customers in the County, which often also reduces insurance rates for those property owners.

Financial/Sustainability Considerations:

- None

Legal Considerations:

- Interlocal agreements are authorized by K.S.A. 12-2901 *et seq.* and are subject to approval by the Kansas Attorney General.
- The proposed agreement describes the circumstances under which each party will respond to an emergency in the other's jurisdiction, provides the legal basis for such response, and describes the parties' rights and responsibilities in the event of a joint response.

Policy Considerations:

- Mutual assistance among neighboring entities allows participants to make maximum use of available emergency response resources.

MOTION: Craig approved the automatic aid agreement and authorize the Mayor to sign the agreement in substantially the form presented. Haynes seconded.

Council Member Warren asked about the map and the tip that appears to be in Mulvane.

Chief Smith explained that the map was established by recommendation of the County Fire District. We won't run into Mulvane or go into their city limits for any responses; we will go around that tip. Currently we don't have an automatic aid agreement with Mulvane so that's why we go down that far.

Council Member Warren asked if there were a major fire in Mulvane, we would only respond if requested?

Chief Smith advised we would only respond if Mulvane Fire and the City of Mulvane requested us to come.

Council Member Craig clarified that was pretty much the agreement we had in the past, it was by request only. You call someone to come and help and this streamlines that so the call does not have to be made to request assistance. It benefits Derby on the north side; it puts the county fire station much closer to some of our residents than our own fire station.

Chief Smith explained that we are still in a mutual aid agreement with Mulvane but everything around there and in the county we will get the call when it is dispatched out to Sedgwick County Fire District.

Council Member Craig pointed out that the City of Derby has provided assistance to Sedgwick County when needed because they have no coverage to the south of us all the way down to the county line.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

PURCHASE FURNITURE FOR THE NEW LIBRARY

Ted Austin, Director of Operations presented the staff report.

Background:

- Our architect from GossenLivingston worked with the Library Design Committee and staff to bid furniture for the new library.
- Furniture was bid in five separate groups, with like furniture placed together. Open lines were used to enhance the ability of multiple vendors to bid. The five groups can be described as follows:
 - One: computer lab tables, lobby bench, conference room chairs, tables, podium, & reading chairs
 - Two: desks, task chairs, computer lab chairs, community room tables, kids tables & chairs
 - Three: file cabinets, workstations, tables, & teen furniture
 - Four: top & end panels of shelving units
 - Five: shelving units
- An alternate to group five, shown as group six in the bid documents, was rejected by staff as too expensive.
- Packets were sent to 15 vendors, with 5 returning bids. See attached bid tabulation.
- The low bid is recommended in groups two through five.
- For group one, our architect has experienced problems recently with the quality of service provided by the low bidder on another client's project, so staff is in process of checking references. A recommendation will be presented at the Council meeting. It may be prudent to recommend the next lowest bidder. The cost differential would be \$3,683.32.
- The bid board has reviewed the bid and concurs with the staff recommendation.

Financial/Sustainability Considerations:

- The architect's original estimate for furniture completed more than a year ago was \$352,769.62.
- The total as recommended is \$272,256.22, plus an additional recommendation for group one is forthcoming.
- The architect and staff anticipated some overage, so the package was carefully reviewed and adjustments were made where long-term value to the Library would not be significantly affected.
- \$400,000 is available in the project budget for furniture purchases.

Legal Considerations:

- All applicable policies and procedures were followed in this bid process.

Policy Considerations:

- We normally accept the low bid that meets bid specifications but have the option to reject a bid from vendors with poor performance history or other valid concerns.
- Additional sureties could be required, if the low bid were approved.
- Additional furniture items, identified when the bid package was created, were determined to be advantageous to be purchased directly by the City at a later time.

DISCUSSION:

Council Member Nun asked if we were getting new furniture for the entire facility. We aren't using anything that's in the current facility, is that correct?

Mr. Austin advised that we are using some furniture but not a lot. Most of our furniture that is in the current library is from 1968. They do have some study tables, a little bit of the office furniture that will fit in with the new design and would not look so worn and aged that they would detract from our new library. We are going to use some of the existing shelving in the storage rooms and places where they won't be seen. The main stack area will be new furniture.

Council Member Nun asked if the specific items that are being purchased by Mrs. Bennett and her staff are coming out of this \$400,000 that was in the budget or is that a separate expense item.

Mr. Austin advised that will come out of the \$400,000; that will be enough to cover that.

MOTION: Nun moved to approve the purchase of Library furniture as recommended by staff, as follows: Corporate Express for group one for \$90,135.68; Scott Rice for group two for \$72,575; John Marshall for group three for \$49,494.66, group four for \$58,705.26, and group five for \$91,481.30. Haynes seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

CONSENT AGENDA

Copier Purchase

Background:

- As part of our photocopier replacement program, we plan to purchase a new copier for City Hall and move a City Hall copier to the Senior Center to replace a unit that is no longer operational.
- We went through an extensive analysis of units in mid-2008 to select a copier for the Police Department. This unit has the same requirements, so the same unit was bid. There are two Konica-Minolta vendors for this area.

Financial/Sustainability Considerations:

- We expect our units to last at least five years and base the cost of the unit on the purchase price and the calculated cost for maintenance over the five-year period.

• Vendor	Purchase Price	Total 5-year Cost*
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DOS	\$12,260	\$20,479
Business Solutions, Inc.	\$13,017	\$20,114 <i>recommended</i>

** Calculation of the 5-year cost includes conservative estimates for copy volume and color usage.*

- The Bid Board has considered and approved this recommendation.

Legal Considerations:

- All applicable policies and procedures were followed in this bid process.

Recommendation:

- Approve purchasing the lowest overall cost system from Konica-Minolta Business Solutions, Inc. for \$13,017.

Approval of Fireworks Display

Background:

- The City of Derby plans to sponsor the Annual Community Fireworks Display in High Park as part of a community-wide Independence Day Celebration on July 4.
- The 2006 International Fire Code, adopted by Chapter 8.16 of the Municipal Code, requires approval by the City Council for a fireworks display to be held in the city.

Financial Considerations/Sustainability Considerations:

- Funding for an annual community fireworks display is derived from fireworks stand permit fees from the previous year. The funding formula was established in 2008 with \$12,000 and provides for an annual increase of 5%.
- There is \$12,600 available for this year’s celebration. Any remaining balance is returned to the general fund.

Legal Considerations:

- Stellar Fireworks has provided the required certificates of insurance and a copy of its state-issued pyrotechnic operator license.
- The required site plan has been reviewed and approved by the Fire & Rescue Department and the Public Works Department.

Recommendation:

- Approve the Independence Day fireworks display to be held July 4, 2009 at 9:30 in High Park.

KDOT Project Agreement for Madison Avenue Resurfacing

Background:

- In February 2009, the American Recovery and Reinvestment Act (ARRA) was enacted (commonly known as the federal stimulus bill). The ARRA is intended to stimulate the economy by providing funding for transportation and other construction projects.
- In April 2009, the City was awarded \$472,500 (90% of the estimated construction cost) for resurfacing Madison Avenue from K-15 to Rock Road.
- KDOT has recently provided the Project Agreement for consideration and execution by the City.
- The agreement outlines each party’s responsibilities and financial obligations for the project.

Financial/Sustainability Considerations:

- Resurfacing of Madison Avenue was in the City's pavement management plan for construction in 2011 at an estimated cost of \$525,000. It is being moved to 2009 in the current budget process.
- The City will be obligated to pay 10% of the cost of construction (\$52,500) and 100% of any construction costs in excess of \$525,000 in 2009.
- The City will likely incur some costs associated with construction engineering (inspection), which is typical on KDOT-administered projects.
- The source of funds for the city's portion is the General Fund in the 2009 Revised Budget.
- Resurfacing Madison Avenue will extend the pavement life of the corridor and reduce maintenance costs to the City.

Legal Considerations:

- The Agreement contains standard KDOT language addressing the City's and KDOT's responsibilities and additional language regarding reporting requirements associated with ARRA funding.

Policy Considerations:

- Use of ARRA funds for the project is consistent with the Act's goal of stimulating the economy by investing in infrastructure.

Recommendation:

- Approve the proposed KDOT Agreement for the resurfacing of Madison Avenue from K-15 to Rock Road and authorize the mayor to execute the required documents.

MOTION: Haynes moved to approve Consent Agenda as presented. Nun seconded.

VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

Council Member Craig indicated it was his understanding we have a large number of fireworks stands this year.

Ms. Sexton advised it is all kind of relative. A couple of years ago we had 13, last year we had 9 and this year we have 10.

Council Member Craig indicated that at \$7,500 per license would equal \$75,000, he asked for clarification of where that goes.

Mrs. Epperson explained that 25% goes to the ACE Grant and 25% to community safety education.

Council Member Craig pointed out we are making some money for people to use and apply for, it's available so be aware of that.

Ms. Sexton added that the ACE Grant (Arts, Culture and Entertainment) is to encourage organizations in town to host events and things for people to go to.

Mayor Avello asked where the other 50% goes?

Mrs. Epperson advised that part of it is for the fireworks. That amount is set by ordinance with an escalation clause. The balance stays in the general fund.

ADJOURNMENT

MOTION: Craig moved to adjourn at 7:56 p.m. Horyna seconded.
VOTE: Motion carried 5-0, Meidinger absent, Bannon absent and Staats absent.

ATTEST:

Dion P. Avello, Mayor

Jean Epperson, City Clerk