

**APPROVED
REGULAR COUNCIL MEETING
June 9, 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
Cheryl Bannon
Tom Haynes, Mark Staats

COUNCIL MEMBERS ABSENT:

WARD I
WARD III

Jim Meidinger
Chuck Warren

Flag salute was led by Council President Mark Staats. Invocation was led by Father Wayne Schmid, St. Mary's Catholic Church.

**CONSIDERATION OF
MINUTES**

Minutes of the May 26, 2009, Regular Council Meeting.

MOTION: Craig moved to approve minutes of May 26, 2009 Regular Council Meeting. Horyna seconded.

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

PUBLIC FORUM

Council Member Haynes thanked all those involved in Derby Days activities. It was a great success. He enjoyed riding in the parade and representing the council and the City of Derby. He wanted to thank the people who came out; from the time they started to the end the streets were lined with people. He loves to see the community involvement, and he thanks everyone.

Council Member Craig also thanked those who did all the work for the garden tour as well as the homes that were included in the tour. He is not sure how many people attended but knows one house had over 500 visitors.

Mayor Avello advised that he and Ms. Sexton attended a County dinner event at the Sedgwick County Zoo last Thursday evening at the new tiger exhibit. It was fascinating to see these huge creatures up close and personal; if you have an opportunity go out and see them. We have a fabulous zoo; it's in the top 10 in some listings and is getting better each year.

PUBLIC WORKS FACILITY UPDATE

Robert Mendoza, Director of Public Works, presented the staff report. He also introduced Darrel Zimmerman and George Brown who played a huge part in the Garden Tour. He introduced Mike Seiwart and David Beaver from WDM Architects.

Background:

- On January 13, 2009, the City Council approved selection of WDM Architects and authorized the City Manager to execute a contract to design a new public works facility.
- WDM Architects and city staff have worked diligently on the facility needs assessment and the schematic design phases of the project.
 - WDM was tasked with comparing three different construction types and providing a recommendation as to which type would provide the City of Derby the best structure for our budget.
 - The three types of construction are pre-engineered steel, concrete block, and concrete tilt-up panels.
 - These building construction types were compared using several criteria and given a point-based rating. This information will be provided to council in the WDM presentation.
- The schematic design information was sent to a local contractor for a current market construction estimate for each building type. Based upon this information and the design criteria scoring, WDM recommends a hybrid building constructed with a combination of concrete and steel panels.
- WDM presented the schematic design, site plan and probable cost estimate to the design committee on May 21st for review and comment.
 - The design committee is supportive of the schematic design provided by WDM.
 - The committee recommends the Council give primary consideration to the life expectancy of the recommended hybrid building type for the marginal cost involved. It provides the longest life and the lowest maintenance costs.
- The anticipated project completion schedule is as follows:
 - June 10 - Construction document phase begins
 - August 3 - 90% plan review
 - August 30 - Construction document phase complete; Construction services phase begins. Bid packages let with a six-week response time frame.
 - October 9 - Bid opening
 - Construction begins 30 days from the notice to proceed for the selected contractor (November 2009).

Financial/Sustainability Considerations:

- This is a 2009 CIP project budgeted for \$4.0 million, which will be included in the Series 2009A General Obligation Bond issue. The recommended building type is within budget.

Legal Considerations:

- None

Policy Considerations:

- The project is on schedule per the WDM facility design contract. Selection of the building construction type is to be determined based upon the research and recommendation of the Architect, and presented to Council for final determination.

Mike Seiwart, WDM Architects, made a presentation giving an update on the project.

DISCUSSION:

Council Member Bannon asked about the roof system for the pre-engineered or the tilt up for the administration building with the insulated bat underneath. What R-value is that?

Mr. Seiwart advised we are looking at an R22 on something like that.

Council Member Bannon clarified there would be no insulation needed for the cold storage.

Mr. Seiwart agreed. They are just plugging in the engine warmers for the vehicles in that space. There would probably be water in there with a 30 degree temperature; we haven't quite determined what all that will house.

Council Member Bannon asked if there were a maintenance area in that building that would need heating.

Mr. Seiwart advised they are still getting that information.

David Beaver, WDM, presented the design elements and the building site plans to the council.

Council Member Horyna asked if there is any aspect of a green building in the tilt up.

Mr. Seiwart advised that has not been addressed yet at this point. He is LEED accredited, and if that were to come up they could certainly tackle that issue.

Council Member Haynes asked about the second tilt-up metal building. Will that be the same price of \$694,000, or will it be a different price?

Mr. Beaver advised it will be a hybrid, so it will be somewhere in between the metal building and the tilt up price because we won't be using as much tilt up on the building. It will be a similar structure behind the skin, but the price will be midway.

Council Member Haynes asked if they are talking about pre-engineered when they say metal building.

Mr. Beaver advised that is correct.

Council Member Bannon stated she noticed that on resistance to impact the pre-engineered really is bad. She thinks the masonry looks nice but is going to go with what is being suggested. Not that our guys would ever hit a building with a truck, but accidents happen and long term planning is a good idea. She noticed the concrete tilt up doesn't go to the top of the bigger doors. How tall are those big doors? Do we need to make the tilt up farther up on the back?

Mr. Seiwart advised they are going to be at least 12 feet, probably 14 feet.

Council Member Bannon asked how high the tilt up goes on the back.

Mr. Beaver advised it is about 9 feet. From an impact standpoint, most of your impact will be 5 feet or below from bumpers and backs of pickups.

Mayor Avello asked about the floor plan, if he is reading it correctly you have to go through the streets room to get to the parks room.

Mr. Beaver advised that is correct. They have a common pathway.

Mayor Avello advised that doesn't seem right to him, what is the theory behind that?

Mr. Beaver advised originally we introduced a hallway that brought you straight into the parks room so you wouldn't have to go through the streets room, but in order to eliminate some square footage and because the two rooms are more interrelated than the motors room and weld room it was changed.

Mr. Mendoza added that currently every shop is separate and individual. At this point in time all employees are congregating in one space and dispersing into their shops. Because of the use of being there, getting their equipment and leaving we really didn't find it necessary to have specific and separated entrances because they are not protecting anything from anyone else. It is shared space, it is really one team working regardless of parks or streets because both shops work simultaneously as one. So we didn't see the need to separate those two uses much more than they currently are.

Council Member Craig asked if the men's and women's locker rooms are safe rooms.

Mr. Beaver advised they are currently looking at those as being safe rooms.

Council Member Craig advised it has a firewall and reinforced structure, is that correct?

Mr. Beaver advised that was correct. It is the safest room in the building but we are not looking for it to be a FEMA approved safe room just because of the expense involved in something like that. It would be something that would be the place you would want to go.

Council Member Craig clarified that would be for tornados.

Mr. Beaver agreed.

Council Member Craig asked how many lockers you need in the locker rooms.

Mr. Mendoza advised in the plan for the next 30 years, we are looking at the growth of the department. It's not only the full-time employees but seasonal help, Workforce Alliance summer employees and providing the space they need. Basically there is room for 58 in the men's right now and 20-something in the women's. Not every one of those lockers will be bought the first day we walk in. We will buy what we need and expand as we go, they are freestanding units.

Council Member Craig advised having a safe place for people to go in the event of severe weather is important. Going back to scheme 1 and the entry way, how wide is the driveway since that is the only one we are going to have to begin with?

Mr. Beaver advised that would be a typical 24 ft. entrance.

Council Member Craig clarified that what we are talking about tonight is construction only for the buildings and doesn't have anything to do with the surface or fencing, security or anything, just the construction of buildings.

Mr. Mendoza advised that is correct.

Council Member Craig asked if there were an estimate for paving and fencing and everything.

Mr. Seiwart advised that is all in the line item of common construction components. There are items he discussed with Mr. Mendoza that Public Works is perfectly capable of handling themselves without having a contractor do it. They have lots of earth-moving equipment so the gravel for the yards, for example, would be on them.

Council Member Craig asked what type of surface is planned for that area.

Mr. Seiwart advised that around the building will be a concrete apron.

Mr. Mendoza advised they would use their millings from millings projects from next year, last year and the year to come for the rest of the area.

Council Member Bannon asked about the concrete block walls in the locker room area. Out in the office areas, why are we using concrete block there, are they load bearing? They are indicated to be the same material by the cross hatch.

Mr. Seiwart advised they are not going to be concrete block.

Mr. Beaver stated he thinks that's the tilt up. The software program they use automatically shades it a certain way on the diagram you're looking at, but that will be concrete tilt up, if that's what you choose.

Council Member Bannon asked if the office walls would be concrete tilt up.

Mr. Beaver advised it would be just the exterior walls, if the interior walls are showing up that way they should not be.

Council Member Bannon asked why you wouldn't put the door to the men's locker room out into the hall and do away with some of the interior concrete walls since they are not load bearing.

Mr. Beaver advised the door was pulled further out, the site lines widen up and the ladies walking by can see things they don't want to see as they walk by the men's locker room.

Council Member Bannon thanked Mr. Beaver on behalf of the ladies.

Council Member Craig asked if there is a requirement since this is an integrated facility with offices and workshops for a firewall between those two.

Mr. Seiwart advised there is a firewall between the two.

Mayor Avello asked if we have a time frame on how long this building will take to build.

Mr. Mendoza advised currently if all goes well this evening, tomorrow begins the construction document phase. In roughly August we will do a 90% plan review of the construction phase, August 30th we will complete the construction document phase and go into the construction services, which is the letting of bids. That is a 6-week process with roughly a bid opening date of October 9th and council approval and then notice to proceed. We are hoping if all goes well that this is a project that would be moving dirt in November 2009. Construction will take approximately 6 months.

Mayor Avello advised the council is all looking forward to this. Owning a small business he is constantly looking down the road at cost and he is deathly afraid of inflation coming our way. Are materials going to be affected somewhere down the line on this, have we signed contracts?

Ms. Sexton advised a lot of people, with the current economy, are thinking inflation is going to hit sometime soon. We are aiming to get this designed and bid as soon as possible. Part of that concern is inflation, but most of it is the local construction market with expectations of Wichita Public Schools putting a number of projects out for bid starting this fall. Our whole goal is to beat that. Once you have a bid those prices are set.

Council Member Craig advised he thinks it wise to move in that direction to avoid the rush of USD 259. He is a little concerned about the start time of November at the start of winter. How would that impact us if we have a real bad winter, it could put us behind quite a bit?

Mr. Mendoza stated the bid process itself will have everything set and ready to go. It would be ideal to start the project within 30 days. Who knows what the weather is going to be, he can't forecast it that far out. It could be a mild winter and certainly if it's doable to move dirt and to begin to dig and deal with entry, the metal building or different phases of the project we would

start those. We would not be taking chances in risking the building or our materials based upon temperature, moisture, etc. There are a lot of projects that happen all year round and buildings that get built in winter, summer, spring and fall and we will be paying very close attention to that. We will be working with the contractors all the way through the process and will not risk the project in any way based upon weather conditions. There are other aspects of the project that could move forward even if we are not pouring concrete and lifting up walls.

Council Member Craig agrees with that in principle. He is just trying to find out what the game plan is for the big picture. We have been through some real problematic things with contracts and we should be very careful how we construct this for performance period, completing on time and incentives for completing early because we don't want to go back and revisit what we have experienced before because this is a big project, just like the library that is doing really well right now.

Council Member Bannon stated that Ted has been doing a great job overseeing the building of the library. Is he going to also do this one or will this one be totally Robert?

Mr. Mendoza advised he is currently the project manager but he is not doing it alone, Ted Austin is deeply involved; Charlie Brown, Stephanie Knebel and Ms. Sexton are all involved. We are using all the resources of the city to make sure this project goes well and of course our contractors.

MOTION: Bannon moved to approve the architect's recommendation of a hybrid building construction type to include a combination of tilt-up concrete and steel panels. Staats seconded.

Council Member Horyna echoed Mr. Craig's concerns about the timing. He is in favor of this building and has done a lot of research on it. His concerns are that according to the National Weather Service, the lows around that time average around 35 degrees in November. Forty degrees is kind of the magic number for pouring concrete. He has seen a lot of these builds go up throughout the area and some facilities want to get them up as soon as they can, and two years later they are planning for repairs. He wants to be real cautious when pouring that concrete.

Mr. Seiwart advised they started the arena in November; they dumped \$5 million dollars worth of concrete in the ground in November, December and January with no impact really at all. Concrete makes heat when it cures, so that's on its side.

Mr. Beaver added that you add different mixtures during the winter months that help with that colder weather. We just need to be on top of that and make sure those things happen.

Mr. Mendoza advised we will be watching them like a hawk.

Council Member Craig commented he is really interested that the center room be the best it can be with the boundaries that we have as far as cost goes. He knows it can be completely outrageous if you made it bulletproof but he would like to make sure that has a real good chance

of withstanding a direct hit. That particular building is going to be out in the open and there are not too many ditches around to hide in.

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

**FINANCIAL AUTHORIZATION
FOR CONSTRUCTION OF A
PUBLIC WORKS FACILITY &
SANITARY SEWER INTERCEPTOR**

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

Background:

- The adopted 2009 Capital Improvement Plan includes two substantial projects:
 - Construction of a new public works facility in the Derby Corporate Park. An update on this project will be given during the June 9th meeting prior to this agenda item.
 - Construction of a 36-inch sanitary sewer interceptor from Rock Road to Madison, approximately 1.5 miles long. The total construction cost is estimated at \$5,000,000, and the City has been awarded a federal grant that will reduce the amount financed by \$970,000.
- The General Obligation Bond financing process requires adoption of a resolution and ordinance authorizing the projects.

Financial/Sustainability Considerations:

- The source of financing for both projects will be General Obligation Bond Series 2009A, which is scheduled for issuance in August 2009. The 2009A bond issue will include \$4,000,000 for construction of the public works facility and \$4,030,000 for the sanitary sewer interceptor.
- The amount financed shall not exceed the amount provided in the authorizing resolution and ordinance.

Legal Considerations:

- The City Council is authorized to adopt resolutions and ordinances providing for the improvement and construction of buildings and infrastructure within the City.

ORDINANCE NO. 1988

AN ORDINANCE OF THE CITY OF DERBY, KANSAS, AUTHORIZING AND PROVIDING FOR THE CONSTRUCTION OF MAIN INTERCEPTOR SEWER IMPROVEMENTS IN THE CITY; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.

RESOLUTION NO. 27-2009

A RESOLUTION AUTHORIZING AND PROVIDING FOR THE CONSTRUCTION OF A NEW PUBLIC WORKS FACILITY, A PUBLIC BUILDING IN THE CITY OF

DERBY, KANSAS; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.

MOTION: Craig moved to adopt a resolution authorizing construction of a public works facility and providing for the payment of the costs thereof, and adopt an ordinance authorizing construction of a sanitary sewer interceptor and providing for payment of the costs thereof. Horyna seconded.

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

**RESOLUTION FOR
TURN LANES AND
SIDEWALK – DERBY
MARKETPLACE 3RD
ADDITION**

Dan Squires, City Engineer presented the staff report.

Background:

- Derby Marketplace 3rd Addition is located at the northeast corner of Meadowlark and Rock Road.
- The Final Plat of Derby Marketplace 3rd Addition was approved by the Council on May 12, 2009.
- Along with the Final Plat, the Council also approved the one petition submitted by the developer for turn lanes, accel/decel lanes, and a sidewalk along the north side of Meadowlark.
- The corresponding resolution for Council consideration has now been prepared by the City's bond counsel, Gilmore & Bell.

Financial Considerations:

- The resolution amount is \$200,000. The benefit district will be assessed 100% of the turn lane and accel/decel lane construction. The City-at-Large will pay for oversizing of the arterial sidewalk (approximately \$24,500) in accordance with the City's Public Improvement Finance Policy.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

Legal Considerations:

- The resolution has been prepared in accordance with Section 12 6a of the Kansas Statutes.

Policy Considerations:

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

RESOLUTION NO. 28-2009
71ST STREET TURN LANE IMPROVEMENTS/DERBY MARKETPLACE 3RD
ADDITION.

MOTION: Staats moved to approve a resolution for turn lane, accel/decel lane, and sidewalk improvements to serve Derby Marketplace 3rd Addition. Bannon seconded.

DISCUSSION:

Council Member Craig asked if Meadowlark will continue east of Rock Road as an arterial.

Mr. Squires advised it would.

Council Member Craig asked if we will be required to put in a sidewalk on the north and south side.

Mr. Squires advised we would probably put in sidewalks on both sides, but the sidewalk on the north side will be a bike path and will be 8 feet.

Council Member Craig clarified the one on the south side will be normal size.

Mr. Squires advised that was correct.

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

**BUCKNER STREET
RECONSTRUCTION
(K-15 TO
MEADOWLARK)**

Dan Squires, City Engineer presented the staff report.

Background:

- A bid letting for the construction of Buckner Street Reconstruction (K-15 to Meadowlark) was conducted on Tuesday, June 2, 2009 at 2:00 P.M. An invitation for bids was disseminated to qualified contractors. The following bids were received by the City Engineer's office and witnessed by the City Engineer:

<u>Contractor</u>	<u>Bid</u>
LaFarge North America	\$1,314,779.70
APAC-Kansas, Inc.	1,313,549.50
Cornejo & Sons, Inc.	1,224,665.25
Kansas Paving	1,197,659.75
Engineer's Estimate*	\$1,309,962.00

*Engineers estimate prepared by Ruggles & Bohm, P.A.

- This project will connect to the south leg of the Meadowlark Boulevard and Buckner Street intersection project scheduled to begin in June. Coordination of the two projects may result in cost savings on one or both projects.

Financial/Sustainability Considerations:

- The source of financing for this project is General Obligation Bond Series 2009A, which is scheduled for issuance in August 2009.
- The cost to be borne by the City shall not exceed \$2,100,000 as provided in the authorizing resolution. Additional costs:
 - \$ 389,849 - Westar Energy relocation of overhead power lines underground.
 - \$ 22,100 - Replacement of existing wood light poles with black fiberglass poles.
 - \$ 88,900 - Engineering design.
 - \$1,698,508.75 - Total anticipated project cost to date is (\$1,197,659.75 + \$389,849 + \$22,100 + \$88,900 = \$1,698,508.75). Considering the scope and location of the project, some unforeseen costs may arise during construction.

Legal Considerations:

- The City followed all statutory procedures and local policies in planning and securing financing for the project, and in soliciting and analyzing bids.
- The General Obligation Bond financing process required the adoption of an ordinance designating the street as a major trafficway (Ordinance 1981), and a resolution providing for the improvement or re-improvement of that designated trafficway and providing the funding to accomplish the improvements (Resolution 19-2009). The required Ordinance and Resolution were approved at the March 24, 2009 City Council meeting.

Policy Considerations:

- Kansas Paving has completed several projects in Derby and has submitted all required bonds and financial sureties for the project.
- The project as designed will provide improved safety and traffic flow along the busy Buckner Street corridor.
- The project includes sidewalks, landscaping and other improvements consistent with the recent rezoning of the corridor to a specialized business district.

DISCUSSION:

Council Member Haynes wants to make sure we are getting quality with the low bid.

Council Member Craig asked if relocation of the power lines is going to clean up the lines that run north and south as well as east and west as it approaches the intersection, or is it just north/south?

Mr. Squires explained this is for the corridor project.

Council Member Craig understands, is this in conjunction with putting the power lines underground?

Mr. Squires explained that we originally contracted with Westar to relocate the intersection immediately adjacent both east and west, north and south. The number you see on here for

Westar relocation underground is the remainder of the corridor from the intersection to K-15 north and south.

Council Member Craig advised he noticed they have pretty much cleaned everything up on the four corners, and it looks like they are about done there.

Mr. Squires stated there has been a lot of activity on the corridor from the intersection to K-15 also as Westar is putting in the underground work to relocate the section.

Council Member Craig said they also set some poles back on the west side, is that correct?

Mr. Squires advised that was correct.

MOTION: Bannon moved to accept the bid of \$1,197,659.75 and authorize execution of a contract with Kansas Paving for construction of Buckner Street Reconstruction from K-15 to Meadowlark. Haynes seconded.

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

CAMBRIDGE STREET REPAIR

Dan Squires, City Engineer presented the staff report.

Background:

- Cambridge Street is between Tall Tree Road and Patriot Avenue on the west side of Rock Road and will be the primary access to the new Hampton Inn.
- Southern Star Gas has a natural gas pipeline running parallel to Rock Road in a private easement along the west side of Rock Road.
- During the construction of Rock Road, it was discovered that the location of the Southern Star gas line conflicted with the Rock Road stormwater sewer and proposed improvements at Cambridge. The City subsequently engaged Southern Star to lower its gas line.
- Southern Star lowered its gas line in September 2008.
- Construction of Cambridge Street was completed in early March 2009.
- On April 6, a small portion of the new Cambridge Street pavement settled as a result of consolidation of the gas company's backfill.
- While better compaction is typical, such settling is not uncommon. In this case with street construction occurring immediately after the pipeline lowering, however, the settling caused a problem with the street. City staff learned a good lesson to be more diligent in our contractual and inspection requirements for projects performed by other entities near our project areas.

Financial/Sustainability Considerations:

- City staff negotiated with Cornejo and Son's to repair the roadway for \$19,975.
- Funding for the repair is available as follows:
 - \$ 7,178.47 - G.O. Bond Series 2008B (Rock Road project)
 - \$12,796.53 - Capital contingencies within the General Fund

Legal Considerations:

- The City is authorized to negotiate and contract for repair of the damaged pavement.
- Outside counsel specializing in construction law was consulted to review the issue and determine whether the City could hold another party responsible for the pavement settling. Any additional discussion on this matter should occur in executive session.

Policy Considerations:

- Timely repair of Cambridge Street will allow for its use to access the new Hampton Inn when it opens in July.

DISCUSSION:

Council Member Craig asked if consideration had been given to the area north of the road that captured all the water in the first place that is basically a pond, and are we going to do anything to back fill that to prevent that from happening so it doesn't erode down into sub surface?

Mr. Squires explained while that hasn't been addressed as timely as we would like it to have been, it has been included in the Phase 11 storm water sewer project that the council awarded at the last meeting, there is a stub that will drain that area as part of that project. We anticipate the contractor intends to start on that project next week.

Council Member Craig indicated that was one of the main contributors to the problem.

Mr. Squires advised that made it show up faster. Anytime you have a trench that is not properly compacted you are going to get settlement sooner or later.

Council Member Craig stated it wasn't designed as a pond in the first place.

MOTION: Horyna moved to authorize the City Manager to contract with Cornejo & Sons, Inc. in an amount not to exceed \$19,975 to reconstruct a portion of Cambridge Street. Craig seconded.

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

CONSENT AGENDA

Novell Licensing Renewal

Background:

- Each year we are required to renew our network licensing. This includes network access and e-mail accounts.
- An auditing program is required which determines our current usage and provides the basis for this renewal.

Financial Considerations/Sustainability Considerations:

- Cost for this year's renewal is \$14,640.78.
- Funds have been budgeted in the Operations budget.

Legal Considerations:

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

MOTION: Staats moved to approve Consent Agenda as presented. Craig seconded.
VOTE: Motion carried 6-0, Meidinger and Warren absent.

EXECUTIVE SESSION

MOTION: Staats moved to adjourn to executive session for discussion relating to the attorney client privilege for 45 minutes following a five-minute recess at 7:31 p.m. Haynes seconded.
VOTE: Motion carried 6-0, Meidinger and Warren absent.

The council returned at 8:24 p.m. and Council Member Staats advised no binding action had been taken.

ADJOURNMENT

MOTION: Craig moved to adjourn at 8:24 p.m. Bannon seconded.
VOTE: Motion carried 6-0, Meidinger and Warren absent.

ATTEST:

Dion P. Avello, Mayor

Jean Epperson, City Clerk