

**APPROVED  
REGULAR COUNCIL MEETING  
March 25, 2008  
7:00 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I  
WARD II  
WARD III  
WARD IV

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

WARD III

Charlie Schwarz

Flag salute was led by Cheryl Bannon

The invocation was led by Pastor Jon Shellenberger, Derby Church of the Nazarene.

**CONSIDERATION OF  
MINUTES**

Minutes of the March 11, 2008, Regular Council Meeting.

MOTION: Warren moved to approve minutes of March 11, 2008 Regular Council Meeting. Bannon seconded.

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

**PUBLIC FORUM**

**Becky Robinson**, Derby Community Coalition promoting Healthy Choices updated the council on things going on in the city with our youth. Friday night the high school SADD group and the Youth Leadership Council along with several other sponsors have coordinated a “battle of the bands”. It will be held at Pleasantview Baptist Church starting at 6:00 p.m., with eight local teenage bands performing. She invited everyone to attend, it was a lot of fun last year and the kids are very musically talented. On Monday night the coalition is sponsoring an underage drinking town hall meeting again. There was one earlier in the month; this one is a coordination of efforts through SAMSA who have coordinated some town hall meetings throughout the country. She went over printed information that had been provided to the council. April 12<sup>th</sup> is the high school prom and the coalition is sponsoring the after prom event starting at 11:45 p.m.

until 4:00 a.m. at All Star Sports Adventures on north Webb Road. They have been soliciting donations and door prizes throughout the community and have been able to raise enough money so far to sell the tickets for \$5.00 instead of the \$14.00 that it normally costs. They will also be providing a shuttle service from the high school to All Star Adventures for any students that are not driving or need transportation, it will run about every 30 minutes or so.

**Council Member Warren** thanked Mrs. Robinson. He asked if this information was available on the City of Derby website and if not can we get it put there.

**Mrs. Robinson** advised the local papers have done a great job also in helping spread the word. We have had some articles and follow-up pictures and articles as well. The one that we did at the first part of March was a youth led event and we had kids design a t-shirt and they did the program.

**Council Member Craig** gave an update on Council Member Schwarz. He is recovering well from an aortic valve replacement that occurred two weeks ago. He thanked everyone for keeping Mr. Schwarz in their thoughts and prayers. He is gaining strength every day and he hopes to be back at the next meeting.

## **PUBLIC HEARING AND ORDINANCE LEVYING SPECIAL ASSESSMENTS**

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

### **Background:**

- At the February 26<sup>th</sup> Council meeting, the assessment roll was approved, calling for specific special assessment amounts to be spread against properties in several subdivisions in the City.
- The Public Hearing presents the opportunity for affected property owners to appear before the Council, in order to clarify any uncertainties regarding the assessments.
- All of the affected property owners have been notified by mail as to the nature and amounts of the assessments, as per state law.
- The project costs to be assessed consist of infrastructure improvements in the Stone Creek Commercial Addition, The Oaks & Oaks 2<sup>nd</sup> Additions, Spring Creek Plaza and Spring Creek 6<sup>th</sup> Additions, and Anderson Farms Commercial Addition.
- The property owners will have until noon on April 17<sup>th</sup> to pay the assessment in full with no interest and eliminate the need for the specials to go on the tax roll. If the property owner chooses not to pay the assessment prior to the pay-in deadline, the special assessments will appear on the tax statements mailed to property owners by the County in November 2008 and will be due in tax year 2009 (1/2 due on or before December 20, 2008; ½ due on or before May 10, 2009).
- The source of permanent financing for these projects, General Obligation Bond Issue 2008 A, is scheduled to close May 29, 2008.

### **Financial Considerations:**

- The total project costs to be assessed within the 2008-A Bond issue are \$2,687,381.22 City-at-large costs of approximately \$78,000 are included in this amount for the extension of Tall Tree Road which is a collector street in The Oaks (Project No. 3 in the ordinance).

**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 is a combined effort of City Engineering staff and the City’s Financial Advisor, Greg Vahrenberg of Piper Jaffrey Company and Charley Young of the Public Finance Group.

**Policy Considerations:**

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

ORDINANCE NO.1929

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS ON CERTAIN PROPERTY TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF DERBY, KANSAS, AS HERETOFORE AUTHORIZED BY RESOLUTION NOS. 65-2003, 21-2005, 22-2005, 02-2007, 03-2007, 04-2007, 05-2007, 51-2003, 33-2007, 34-2007, 67-2004, 68-2004, 01-2005, 02-2005 AND 48-2007; AND PROVIDING FOR THE COLLECTION OF SUCH SPECIAL ASSESSMENTS.

DISCUSSION:

**Mayor Avello** opened the public hearing. With no one present to speak he closed the public hearing.

MOTION: Bannon moved to conduct the public hearing to receive affected property owners comments and questions, and to approve an Ordinance levying special assessments on certain property to pay the costs of internal improvements as authorized by the resolution noted in the ordinance, and providing for collection of such special assessments. Staats seconded.

**Mayor Avello** asked if the city had received any objections from the public.

**Ms. Sexton** indicated some people had called in and spoke with Karen Morgan to make sure they understood their letter, which happens every time we send letters out but there was no anger or overwhelming protest.

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

**FIREWORKS  
ORDINANCE UPDATE**

**Brad Smith**, Fire Chief presented the staff report.

**Background:**

- The current fireworks ordinance was adopted in 2002.
- The ordinance addresses both legal use of fireworks and the guidelines for sales and operations of fireworks stands.
- When originally adopted, the expectation was that there would be some complaints but also others would be pleased to be able to legally shoot fireworks to celebrate Independence Day.
- In response to citizen concerns, the Council asked staff to review the City code and determine if there were changes/updates that need to be made.
- Recommended changes:
  - Increase permit fee for each vendor tent to more closely match those of other area cities.
  - Require 100 feet separation of sales locations from inhabited structures (fire code).
  - Increase from 50 to 100 feet the separation of storage, sales or discharge of fireworks from gasoline pumps.
  - Provide brochures to be given out with each sale and distribute in utility bills so residents will gain a better understanding of when and what is legal for the discharge of fireworks in the City of Derby,

**Financial Considerations:**

- The number of fireworks sales permits doubled in 2007 to thirteen which generated revenue of \$67,000.
- Implementation of the 100 feet separation from inhabited structures will eliminate sales in several locations around the city, and will most likely reduce the number of stands by a few. However, as the city boundaries expand new sites may become available in the future.
- Occasionally revenue was generated from the \$1,000 late fee, but elimination of this fee, along with enforcement of the distance requirement from inhabited structures, will be offset by the increase in the permit fee per stand from \$5,000 to \$7,500.

**Legal Considerations:**

- Regulation of sale, possession and use of fireworks is with the general police power of the City.

**Policy Considerations:**

- Chapter 5.36 of the Derby Municipal Code outlines the adoption of fireworks regulations within the City of Derby.
- Proposed changes were presented to the Ordinance Review Advisory Board (ORAB) for its consideration. On March 18, ORAB completed its review and recommends the ordinance as presented.
- Proposed changes to the current ordinance were mailed to fireworks vendors for review and comment.
- Adoption of the recommended fireworks ordinance supports the City's values of Safety and Stability as noted in the strategic plan: *"Good planning ensures stability in codes and community standards..."*

## ORDINANCE NO. 1930

AN ORDINANCE AMENDING SECTIONS 5.36.010, 5.36.020, 5.36.070, 5.36.080, 5.36.090, 5.36.110, AND 5.36.120 OF THE DERBY MUNICIPAL CODE, REGULATING POSSESSION, SALE, USE AND DISPOSITION OF FIREWORKS

WITHIN THE CITY, AND REPEALING ORIGINAL SECTIONS 5.36.010, 5.36.020, 5.36.070, 5.36.080, 5.36.110, AND 5.36.120 OF SAID CODE.

DISCUSSION:

**Council Member Craig** asked if Chief Smith had received any comments from fireworks vendors after they received their letters.

**Chief Smith** advised he did not.

**Council Member Meidinger** indicated he noticed in the comparisons with other cities that several cities have a public shooting area and asked if we have one.

**Chief Smith** advised we did not have one that is recognized.

**Council Member Meidinger** asked what recognized meant.

**Chief Smith** explained that public shooting areas for most of these places is usually a park for people that don't have the room to do it at their house.

**Council Member Meidinger** asked if we would be better off having a public shooting area as opposed to shooting them in the streets.

**Ms. Sexton** advised that staff has researched the public shooting area issue and learned that Derby goes above and beyond. We provide funding, \$12,000 this year for an actual public event that people can enjoy without any fee at all. These other communities don't do that, they provide a park, a designated location for people to buy their own fireworks and shoot them off there. Part of the deal is that the city has to staff the location which involves public expense in insuring the safety of people because they are on public property. We have not heard from anyone in our community that wants to do that so we just assumed we wanted to stick with the city sponsored and staffed public display of the large fireworks.

**Council Member Meidinger** indicated he understood that part, but if he had a choice he would rather have them buy their fireworks and shoot them and get them off the streets. At least at that point you have some control; otherwise you have fireworks going off at 2:00 or 3:00 in the morning or 10:00 at night and have no idea where they are coming from. It would appear to him that if you want to control the fireworks and keep the complaints down you would probably be better off having a controlled area rather than anywhere you want to in Derby.

**Chief Smith** stated that staff did talk about having a public shooting area and with our own display at High Park it is not something we would want to intermix and we didn't think we had room enough to allow a group of people at the other parks. We have discussed it and didn't feel like it was something we could make work.

**Council Member Meidinger** asked where Andover, El Dorado and Mulvane had their public shooting areas.

**Chief Smith** advised Andover uses one of their parks but he is unsure about the others.

**Council Member Bannon** stated that there are so many fireworks that are shot in this community that she doesn't think we have a park big enough where we could make it a public shooting area. For a number of years, since she has been on the council she has received a few complaints each year from the lateness of the hour. Changing the shooting time to 10:00 should help even though we can't enforce that all the time but your honest people will follow the rules. She thinks this is a pretty good compromise but she really loathes to try to set a shooting area aside because she doesn't think there is any place big enough and you are either going to allow fireworks in your community or you're not. She thinks we are still at the point we are going to allow them, she hopes anyway.

**Chief Smith** indicated that just because you have a public shooting area that is not the only area you can shoot. He does not know that designating a public area will take them off the street. Unfortunately we have a lot of young children out there that are unsupervised doing whatever it is they want to do.

**Council Member Staats** agreed that just because Andover has a public shooting area that does not mean that is where they have to shoot. It is an opportunity for people that may live in apartments or mobile home parks to shoot them off. He also thinks that if we made it mandatory, which he doesn't think we should, people are still going to go out and do it. Before Derby allowed Class C fireworks people were doing it anyway. It is hard to enforce from a fire department and police department point of view, there aren't enough people on the streets to do that. He doesn't think it would be real feasible for us to do anything like that.

**Council Member Craig** asked what the citation would be for someone that sets off a 3-4 inch mortar.

**Ms. Sexton** indicated she does not think there is anyone in the room that can quote what the citation is for that particular infraction but part of our mission in amending this ordinance would be to provide an educational brochure to everybody who buys them that says; if you shoot them in the street here is what will happen, if you see someone violating this ordinance here is what you should do. Right now it is her contention that a lot of people don't realize that there are time constraints and you are not supposed to shoot them in the street and those kinds of things. The whole point is if we first try to educate people as to what the law is and what the fines are more people will follow the law.

**Council Member Craig** stated that last year he received some complaints in Ward I and he knows Mr. Meidinger did also about some heavy duty mortars that were obviously not purchased in our local area but they came from somewhere and people were getting worried about not only the safety of the fireworks issue but what goes up has to come down obviously. We will be looking for that information that goes to the customers because he thinks they should be

forewarned that if they do violate it there can be some serious consequences. Those “little puppies” are really dangerous.

**Council Member Meidinger** indicated that in most fireworks stands that he has attended you will have 2-3 people supervising but you also have some teenagers working there. He asked if it is the responsibility of the teenagers to hand out the information on shooting the fireworks.

**Chief Smith** advised it would be the responsibility of whoever is operating that stand if there are teenagers there it will be their responsibility. We hit every stand at least once, if not twice a day and that is something we will be watching for.

**Council Member Meidinger** suggested it might be better to take the responsibility away from these individuals that are running the fireworks stands because they get busy and there is a lot of people coming and going. If they would have a sign at the entrance to indicate when you can shoot them and how you can shoot them, etc., is this other information going to be a pamphlet?

**Chief Smith** stated Mr. Meidinger brings up a good point, that was the other thing they were thinking about doing was signage.

**Council Member Meidinger** asked if there would be a sign indicating between which dates they can shoot fireworks.

**Chief Smith** advised it will be a big sign that will reflect what the brochure has in it.

**Greg Lathrop**, Kaboomers Fireworks, advised that for the last two years he has been located in the China Buffet parking lot which is a pretty good location because it is on pavement. If you know the rain we had last year that was a real mess for some people. We currently have electricity and phone service hooked up at that location year round and there is quite an expense to have that put in and maintain it year round. He advised they did receive the letter the chief sent out about some of the proposed changes to the ordinance. He did some research along with the people who own Kaboomers Fireworks. They have hundreds of stands all throughout the Midwest and have to deal with each individual ordinance for each city so they are pretty in tune with what’s going on. He pointed out some of the distance requirements from structures from other cities, Manhattan, Kansas is 20-feet and he believes that is in guidance with state law, which is 20-feet. Pittsburg, Kansas is 40-feet and at 50-feet are Hutchinson, Mulvane, Parsons, Goddard, Haysville, Holton and Marysville. The only other restriction the state has is a 50-foot distance between gasoline pumps, stations and bulk storage. If you accept the proposed ordinance as it is, you will basically eliminate all but three stands. There are only three that would fall within the 100-foot requirement between the location of a stand and a structure. If this occurs there will be several losers. We probably have more stands here because of the location to Wichita. We have a lot of people that travel here, it is not just the citizens of Derby that come and purchase these fireworks. The city will lose in several ways, a substantial amount of sales tax along with the money from the licensing fee. The city made \$65,000 off of the licensing fee and this year it has been increased \$2,500. He is not necessarily opposing that but if the idea is to restrict the number of stands and then you have issues about where people are shooting them,

then outlaw fireworks. If we are going to have fireworks we need to have something that everybody can get along with. He estimated that there was more than half a million dollars worth of fireworks sold in Derby last year, so you are looking at sales tax that the city makes is about \$31,000. From his experience in the 2 years he has had his stand at this location, not only does he get repeat customers from outside of Derby, a lot of people bring their kids and they are eating here, buying gas and doing other things they would not normally do during those 10 days and the city is generating more revenue from additional sales that would not be there otherwise. He believes if you accept the 100-foot restriction it will be contrary to what the city's mission is in nurturing a strong business community. Even though fireworks stands are only here 10-11 days it is something that is a business they have to work at year round. It's not just something that creates an eyesore for 2-weeks; it is a year round business that they have to take care of.

**Council Member Meidinger** clarified that only 2-3 tents would meet the 100-foot restriction.

**Mr. Lathrop** advised that he believes there are only 3. He proposed a 50-foot restriction to any structure, inhabited or not and make it 250-feet from a residence. That is still way more restrictive than what state law is, which is 20-feet from a structure. By doing the 100-feet, not only are the fireworks people going to lose money, but the city will lose money as well. Regarding the public shooting areas, some of those were addressed when the law was changed to "shoot them where you buy them". If somebody travels from outside the City of Derby and purchases fireworks and we know they don't live in Derby it would be recommended they go to the public shooting area so they would be in compliance with the law. If they take them into Wichita they are in violation of the City of Wichita's ordinance.

**Bob Sweet**, Big Daddy Fireworks, has spoken with Chief Smith regarding the fireworks ordinance and he requested that we send him some licenses and insurance copies. One of their main concerns is the loss of sales on the 5<sup>th</sup>. In a given period of time they have 9 days in a 365 day year to sell fireworks according to state law, that being June 27<sup>th</sup> to July 5<sup>th</sup>. In Andover they allow sales on the 5<sup>th</sup> if it falls on a weekend, other cities such as Hutchinson allow sales on the 5<sup>th</sup>. Last year we had torrential rains, 24-hours a day for 3-4 days straight. When it rains on the 4<sup>th</sup> pretty much everybody goes home and they don't come back. Sales on the 5<sup>th</sup> allows sales for sales tax and percentages for the kids to have their youth programs and allows us to get rid of product, otherwise he is stuck with it for a year. It does decrease the amount of sales tax generated for the city and last year the city would have lost a little over \$2,000 had you not had sales on the 5<sup>th</sup>. It also gives the kids a lot of extra money for that period of time. He suggested allowing sales on the 5<sup>th</sup>, he would suspect here in town that they were one of the few stands open on the 5<sup>th</sup>. He agrees with the ordinance as the distance requirement really doesn't affect him. He is from Hutch and they have a 50-foot requirement, and he thinks the 100-foot seems a little excessive. He is not sure where that number came from and it does affect one of the stands they were going to have, it would be beneficial to most tents to shorten the distance. He is not opposed to the increase in permit fee, it is pretty much in line with what Andover charges. If you are going to raise the fee and take away days from us at the same time it really affects our expenses too and makes less revenue for the kids at the same time.

**Council Member Warren** advised there is a part of him that is empathetic to the plight that the vendors are in with unsold product and getting that sold. He also doesn't want to create a situation where vendors are bringing in additional inventory. It is one thing to stay open to get rid of product versus bringing in more product to sell.

**Mr. Sweet** stated that from his experience, everyone is so busy there is no time to bring in more product, whether it be from a trailer or truck. They hardly have time to bring product from the trailer to the tent to keep it stocked. At the end of the day everyone is too tired to bring in anything else.

**Council Member Warren** clarified that what is being sold on the 5<sup>th</sup> is the inventory that is on site.

**Mr. Sweet** advised they don't even transfer from one site to another, no one has the energy to do that.

**Council Member Craig** asked what a 75-foot restriction would do.

**Mr. Lathrop** advised that would also prevent them from putting their stand at their regular location. They are 69-feet from the Auto Zone building.

**Council Member Craig** clarified that the amount of sales tax that Derby would realize off of even \$500,000 is only \$2,500. There is a big sales tax, but we only get ½ cents back on that. We had no restriction on distance previously and now we are advocating 100-feet, he asked Chief Smith where the 100-feet came from.

**Chief Smith** indicated he has never seen that distance (20-feet) in the state statute. The 100-feet comes out of the new adopted fire code and was in the old adopted fire code before it was changed recently. If someone can show that to him he would be happy to look at it.

**Council Member Craig** indicated that is an illusive figure right now and wants someone to figure it out, the figure should be in line with what we have on the books and he is not sure he has heard what we have on the books.

**Chief Smith** advised right now we have 100-feet on the books.

**Council Member Craig** pointed out before we had nothing as far as distance, that is what it says on the comparison sheet and now its being moved to 100-feet. He asked if there is something that supersedes this that says it has to be at 100-feet.

**Chief Smith** explained that what he is saying is that according to the old fire code we should have been requiring 100-feet.

**Council Member Warren** stated that when we put ordinances together we have safety concerns. Is there a significant practical difference between the 50-feet and 100-feet requirement in terms of

safety? There is a certain level where we feel comfortable and a level where we don't, is that a number that was pulled out because we feel comfortable with it, or is it just sort a nice round number?

**Chief Smith** indicated it is a number he feels he pulled out of the fire code which is the experts who say if you have low class fireworks they can be this close to buildings.

**Council Member Warren** asked if the fire code was a national fire code.

**Chief Smith** explained it is an international fire code that we adopted.

**Council Member Meidinger** stated that one of the wonderful things about Derby and most cities in Kansas is that we have home rule. We can change that and he thinks that picking an arbitrary number of 100-feet, when in fact we haven't enforced it before and the world didn't come to an end is one thing. The other thing that he thinks we might want to take a look at is that we don't want to kill the golden goose. We have \$65,000 from revenues last year and we are going to increase the fees from \$5,000 to \$7,500, a 50% increase, we are going to shorten the days the vendors can sell and then we put more restrictions on them. He is not in favor of this restriction at all. What he would like to see us do is table it until we get some more interesting facts about where this 100-feet comes from. In fact, we shouldn't be discussing this now, we should have discussed it 6-months ago. To put restrictions on fireworks sales at this point he doesn't think is fair.

**Chief Smith** stated that one of the reasons for ending July 5<sup>th</sup> sales is to cut back on fireworks usage on other days. We have a very short shooting day on July 5<sup>th</sup>, it is supposed to quit at 10:00 p.m. which is hard to control sometimes. Staff has been working on this and the vendors received notification several months ago that we would be working on this and to hold off. If the council wants him to take it back, we are happy to do that.

**James Meek**, appreciates the concern and the reasons for the changes. The only change he is against is the 100-feet restriction, it causes a problem for some organizations currently in use and some potentially new vendors in negotiation with various companies. He suggested a lesser restriction, 100-feet is a bit excessive.

**Council Member Bannon** suggested doing 50-feet for structures and she asked how many tents we would cut out if we left it at 100-feet for residential structures.

**Chief Smith** stated he did not believe we would have an issue. We had one stand last year behind Applebee's and they were 300-feet from any residence.

**Council Member Bannon** stated that as far as sales on the 5<sup>th</sup>, if people are going to buy fireworks to shoot on other holidays, it is like people that want to buy Easter candy. You buy it and you have it and look forward to the sales after because not everyone can afford the full price. She does not have a big issue selling on the 5<sup>th</sup>.

MOTION: Bannon moved to adopt the recommended fireworks ordinance as presented with the following changes: limit on number or location of stands to be no closer than 50-feet to structure or 100-feet to a residence and to allow sales on the 5<sup>th</sup>. Arnold seconded

**Ms. Sexton** asked for clarification, does the motion indicate any structure, or any inhabited structure?

**Council Member Bannon** asked if inhabited means residence also.

**Ms. Sexton** advised that it means a building with people in it.

**Council Member Bannon** stated the motion should say 50-feet to an inhabited structure and 100-feet to a residence.

**Chief Smith** clarified she wants 50-feet to a commercial property.

**Council Member Bannon** advised that is correct.

**Ms. Sexton** suggested that it was mentioned earlier about a sign posted to indicate hours of discharge. That is not currently part of the ordinance. We could do it, but if you want to make the vendors do it, then it needs to be part of the ordinance.

**Council Member Bannon** stated she did want that added to the motion.

**Ms. Sexton** suggested wording of “signs displaying legal hours for discharge of fireworks”, it would be an amendment to section 5.36.090.

**Council Member Bannon** asked if she needed to change her verbiage as far as the structure distance.

**Ms. Sexton** indicated they had it as “50-feet from commercial inhabited structures and 100-feet for residential”. Then we are leaving the other distance requirements that is 100-feet from gasoline pumps alone.

**Council Member Bannon** agreed.

**Ms. Sexton** advised that we were trying to find the state law that referenced 20-feet and it was a little mistake, the state law does not have any distance requirement other than the gas pump requirement. She thanked those that came to speak and did research, it was very helpful. We certainly did believe that the 100-feet would reduce the number of stands from the high of 13 in 2007 to something closer to the previous high of 8 in recent years. We did not go out and measure every site, but we did note in the staff report that there are new sites developing all the time so it does not preclude people from figuring out different locations as well.

AMENDED MOTION:

Bannon moved to adopt the recommended fireworks ordinance as presented with the following changes: limit on number or location of stands to be no closer than 50-feet to a commercial inhabited structure or 100-feet to a residence, to allow sales on the 5<sup>th</sup> and to require signs displaying legal hours for discharge of fireworks. Arnold seconded.

**Council Member Craig** asked if we mentioned the penalties or consequences of things other than shooting outside of allowed hours.

**Ms. Sexton** advised that would be in the brochure but we would not ask the people in the tents to display that.

**Council Member Craig** wants to be sure people get the information that we are a little concerned about the activities that have occurred over the past couple of years with fireworks that were definitely beyond the limits of what is sold in Derby.

**Ms. Sexton** stated that the idea is for the brochure to include lots of information. It is in this ordinance that it not only be handed out at the tents at each sale but would also be included in your water bill that would go out to every home. Whether you are buying fireworks or not you will know what the laws and rules are.

**Council Member Meidinger** commented that if we are going to have a sign we should put stipulations on where the sign should be located because in fact you could put the sign in the back of the corner. It should be at the entrance and it should have verbiage as to sales and penalties and should be 4x4 so it is visible to the public. He also asked if more than one sign should be up if there is more than one entrance.

**Chief Smith** advised that was something we can look at. We require the signage to be up, one at the front and one at the back, and how many signs we are going to require them to put up.

**Council Member Bannon** suggested doing a vote, put it in place for a year and next year we can tweak it as we go.

Vote on amendment:

Craig yea, Meidinger yea, Nun yea, Warren nay, Schwarz absent, Bannon yea, Staats yea, Arnold yea, 6 yea, 1 nay, 1 absent, motion carried.

Vote on original motion:

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

**Ms. Sexton** thanked Chief Smith, the vendors who came this evening and provided input last year as well as the Ordinance Review Advisory Board who spent a couple of months working on this.

**ARTISTIC, CULTURAL**

## **& ENTERTAINMENT GRANT APPLICATION**

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

### **Background:**

- The Derby City Council established the Artistic, Cultural & Entertainment (ACE) grant program as a means to financially partner with organizations to provide artistic, cultural, or entertainment events or programs that contribute to the quality of life in Derby. The spirit of this grant program is to encourage development of activities to bring people to Derby or, likewise, keep Derby residents in town for their leisure time.
- Applications are received annually and reviewed by a selection committee made up of elected officials and City staff. The selection committee makes recommendations on allocating grant funding to the City Council for approval.
- The selection committee met on Thursday, March 6, 2008, to discuss the ACE applications and determine its recommendations to the City Council.
  - Members of the selection committee include Council Member Cheryl Bannon, Council Member George Arnold, City Manager Kathy Sexton, and Public Information Officer Kristy Bansemer.
  - The selection committee made the following recommendations:

\$	Derby Twins Parents' Weekend	\$2,000
\$	DCCPH Summer Fest <i>With \$750 match</i>	\$1,000
	(Plus the City would provide free rental of the shelter & amphitheatre at High Park)	
\$	Derby Baseball Association ( <i>one time</i> )	\$2,500
	(Purchase two portable pitching mounds)	
\$	Derby Historical Museum	\$2,500
	(Purchase heating unit)	

### **Financial Considerations:**

- ACE funding is derived from 25% of revenues from fireworks stand permit fees from the previous year.
- Revenue of \$16,750 from 2007 permits comprises the 2008 budget for the ACE program. Since \$2,500 was allocated to the DRC Summer Concert Series a few months ago, \$14,250 was available to the committee for ACE recommendations to the Council.
- The committee's recommendations total \$8,000, which leaves \$6,250 available for future projects.

### **Discussion:**

- The Derby Twins summer baseball organization (college age) requested \$2,000 to sponsor Parents' Weekend July 1-7, which would provide for free admission for all attendees of six home games (Junction City, Newton, Hays [3 games], and Joplin). Besides this benefit to Derby residents, the community will play host to 28 sets of parents of the ball players who will be in town visiting their sons during this week, which the committee deemed to be of economic benefit to area merchants. The City would also receive "Triple Sponsor" benefits, including various forms of advertising. This 2008 season would be the third year the City has sponsored Parents' Weekend.
- The Derby Community Coalition Promoting Healthy Choices requested \$2,500 for the second annual Summer Fest in High Park to be held in late August. Last year's event drew 40 booths and an estimated 600 attendees. The event is designed to provide a high quality activity for families to enjoy a day together and to expose families to a range of healthy and fun activities that they can participate in together on an ongoing basis. Included would be an NFL punt, pass and kick competition, inflatable moonwalks, an ice

cream social, a movie under the stars, and various games and giveaways. The City's participation last year included \$750 (with an equal match in private donations required) and free use of the shelter and amphitheater. The Committee determined that an increase of \$250 this year would provide a very good event, and the match requirement could remain at \$750.

- The Derby Baseball Association (DBA) made its first ACE grant request of \$2,500 for assistance in procuring equipment to assist with little league baseball tournaments. The Association formed in winter 2007 (formerly Derby Babe Ruth Baseball). In 2008, DBA plans to host 4 tournaments, which would draw players and families from around south central Kansas to Derby for 4-5 days at a time, which are also fundraisers for the league. The requested equipment includes two portable pitching mounds, which are needed to stretch further the usage of the ball fields. Because our fields are also used for DRC baseball and softball, constructing and tearing down dirt mounds for games is labor intensive and limits the number of games that can be held. The committee recognized the tournaments as positive events for the youth and for area merchants and, because the events are also fundraisers for DBA, recommends a one-time grant of \$2,500.
- The Derby Historical Museum also made its first ACE grant request of \$2,500 for either remodeling a new exhibit room or for helping provide heat to part of the museum building. The committee determined that providing heat would help make the facility accessible to more visitors in the winter months and would enable volunteers to work on exhibits more in the winter months as well. Area electrical heating units (like in hotel rooms) are planned to be placed in the closet area between two adjoining rooms so one unit could heat two rooms. Bids are being solicited, as are grants from other sources. The intent is to heat specific areas incrementally as funds are raised. Because the ACE grant is limited to \$2,500 per organization, the committee believed that other fundraising efforts would likely be more successful for the remodeling project, so the City should assist with heating.
- The Derby Citizens Recreation Association (DCRA) made its first ACE request for \$1,000 seed money for an Elite Eight Hold 'Em Madness poker event on March 30, 2008 at the Derby Recreation Center. The event would be a fundraiser, with profits used to assist families on free/reduced lunches in USD 260 who cannot afford DRC memberships or activity fees. While the efforts of this non-profit foundation are commendable, the committee did not recommend City participation in this event because it did not deem it prudent to direct city funds to another governing unit through a foundation. The Derby Recreation Center is a government unit with its own funding source (property tax levy through the school district). The DCRA is a non-profit foundation with a mission to assist the Derby Recreation Commission in recreational pursuits. Financial involvement by the City would be beyond the City's mission.

#### **Legal Considerations:**

- The Derby City Council has empowered the selection committee to make recommendations for allocating available funds to successful applicants based on program guidelines as evaluated by the selection committee.

#### **Policy Considerations:**

- The selection committee finds that the grant applications from the Derby Twins, DCCPHC Summer Fest, Derby Baseball Association and Derby Historical Museum fits within the scope and intent of the grant program.

#### **DISCUSSION:**

**Council Member Meidinger** questioned why the grant request was turned down for the Derby Citizen's Recreation Association. He is a member of that board of directors and they are holding a fundraiser and he was a little concerned that this one was left out. According to the staff report

it appears staff felt the money was going to the DRC. It is a separate organization; it is a foundation for the Derby citizens to have the avenue to raise money for the recreation people in Derby. He requested a comment from staff as to why this one was left out.

**Ms. Sexton** explained that the request from the organization states “the benefit will go to the Derby Recreation Commission to assist those who qualify through the application process”. They made it pretty clear in the request that the proceeds of the event would go to the DRC. That’s okay and it’s their choice, but she does not think anybody set this program up to funnel funding to the DRC from the city. We are happy, as we have in the past to support DRC sponsored events for kids in the park and concerts, but the idea of saying this would just sort of supplement your budget to take care of expenses that are normally charged to individual users of the facility who could not afford them or qualify for a scholarship was beyond the mission of what this program was set up to do.

**Council Member Meidinger** advised he did not make the application nor did he see it.

**Council Member Craig** asked who does the work on the pitchers mounds, is it the DRC or is it the city.

**Ms. Sexton** explained it is her understanding that volunteers from the Derby Baseball Association build up those dirt mounds now for their games and then take them back down when they leave the facility.

**Dan Billman**, Vice President of the Derby Baseball Association advised that typically the DRC takes care of building up the pitching mounds. They had one built last year for a regional tournament and it was quite time consuming. It usually takes 1-2 days prep time, upkeep during the tournament and tear down time after the tournament. The DBA has started an open division that will start pitching mounds, so not only will the mounds be used for tournaments, but will be used all season long for the 9-10 year old division, as well as 11-10 year olds if needed. Some day, hopefully most of these kids will be playing at the high school level and they will be pitching off mounds in high school, so why not get them started at 9-10 years old so it is something they are familiar with. Under the old program they didn’t start pitching off the mound until they were 13-years old, now we can start them younger and develop them into better athletes.

MOTION: Craig moved to approve Artistic, Cultural & Entertainment Program grants in the amount of \$2,000 to the Derby Twins; \$1,000 to the Derby Community Coalition Promoting Healthy Choices, \$2,500 to Derby Baseball Association, and \$2,500 to the Derby Historical Museum. Warren seconded.

**Council Member Bannon** thanked everyone that applied; it is wonderful to see all the programs. She reminded everyone that we do this once a year and encouraged people to apply, we have some money to give away and we like to help programs. As far as the DRC, we do a number of programs with the DRC and it is a very good organization and a great combination with the city. This particular request they made was really in there because they do a wonderful thing, they give \$80,000 in scholarship each year but the grant money they wanted for this particular program was

to help off set part of the line budget item out of the budget process and that is really what it came down to the for the committee as far as not feeling that was the proper way to transfer money from one pocket to another.

**Council Member Meidinger** advised he has no objection to the money not going to the DRC if that is the way it was stated in the grant and we probably should not transfer from one tax entity to another.

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

**Mayor Avello** addressed Mr. Billman and advised that his controller has twins who come down here every year and after every weekend they are down here he just raves about the condition of the field and the whole deal you guys have. You do a wonderful job and are flying under the radar and he thinks we need to bring it up a little higher.

### **ARTISTIC, CULTURAL & ENTERTAINMENT PROGRAM GUIDELINES**

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

#### **Background:**

- As the A.C.E. program enters its fifth cycle of grants since its inception in 2006, the committee identified an issue to improve the program guidelines, which is:
  - Requirement for statement of actual revenues and expenses from past event.
- Application for an A.C.E. grant has required a project budget of estimated revenues and expenses for the event being planned. Now that applications are being received to fund a second or third year of the event, the need to require statements of actual revenues and expenses from when the event was held previously. Review of such information will assist the committee in understanding how City funds were used in past grants and in seeing the breadth and depth of other financial support. Having multiple financial supporters is a key requirement of the program.
- This issue was considered and deliberated by the selection committee at its meeting on March 6, 2008. Committee members include Councilmember Cheryl Bannon, Councilmember George Arnold, City Manager Kathy Sexton, and Public Information Officer Kristy Bansemer.

#### **Financial Considerations:**

- None

#### **Legal Considerations:**

- The Derby City Council has empowered the selection committee to make recommendations for allocation of funds and parameters of the grant program.
- It is reasonable to anticipate that modifications to the grant program will be necessary throughout its evolution to allow for growth, efficiency, and success.

#### **Policy Considerations:**

- The committee previously sought and earned approval from the City Council to include provisions for one-time grant funding for fundraising events and clarifying language regarding the eligibility of previously established events.

**MOTION:** Arnold moved to approve the recommended change to the Artistic, Cultural & Entertainment Program. Staats seconded.

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

**SPECIAL USE PERMIT –  
PROPOSED LIBRARY  
SITE**

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

**Background:**

- In October of 2007, the citizens of Derby approved a ½% sales tax to fund a new library project.
- The proposed library location is on existing Tangelwood Elementary School property at the northwest corner of Walnut Grove and Sumac.
- The existing school property is zoned R-1 Single Family Residential. In that zoning district, a public building erected or land used by any agency of the City, County or State government requires a Special Use Permit.
- The Special Use Permit process is conducted similar to a Zone Change Request, but without changing the official zoning map.
- The Public Hearing for this case was advertised in the City’s official newspaper on January 30, 2008. Adjacent land owners were also notified of the Public Hearing via U.S. mail on February 1, 2008.
- After receipt of public testimony at the Public Hearing, the Planning Commission developed the appropriate “Findings of Fact” in support of the Special Use, with the condition that on-street parking be prohibited on the north side of Walnut Grove and on the west side of Sumac adjacent to the library property.
- The Planning Commission also approved the Lot Split for the library site on February 21, 2008.

**Financial Considerations:**

- None

**Legal Considerations:**

- Pursuant to section 1101 of the City’s zoning ordinance, the procedure for considering a special use application is the same as is used for proposed zoning amendments.
- The Council has the following options:
  - Adopt the recommendation of the Planning Commission, including special requirements, and authorize issuance of the special use permit (requires 5 affirmative votes).
  - Disapprove the Planning Commission’s recommendation in whole or in part and either deny the special use permit or approve it with other or additional conditions (requires 6 affirmative votes).
  - Return the matter to the Planning Commission for further consideration (requires 5 affirmative votes).

**Policy Considerations:**

- All municipal services are available, so there is no requirement for extension of infrastructure.
- The 2006 Comprehensive Plan Goals & Policies calls for the City to “provide comprehensive library services and programs for all population segments within Derby, adequately maintain current facilities, and provide for development of future facilities and utilization of advanced library technologies.”
- The Comprehensive Plan also states that: “The City’s public library should be maintained in a geographically central location within the 2030 planning area. The existing library facility at City Hall, or a possible new main library facility on an undeveloped site located north of City Hall, are excellent centrally located sites to serve the future population of Derby. This central library facility should also be considered for community meeting rooms and programming to meet the needs to the community at large including those of senior citizen residents.”

DISCUSSION:

**Council Member Craig** asked if the land deal has been executed.

**Mr. Newberry** advised the land swap has been executed.

**Council Member Craig** clarified that the land is not the existing Tanglewood Elementary School property, it is our property, is that correct.

**Mr. Newberry** advised that was correct.

**Council Member Craig** advised that the record should show that, that we are not executing something on Tanglewood Elementary School property, it is our land.

**Council Member Meidinger** clarified the parking, that anything west of the library would be parking.

**Mr. Newberry** explained that what they are saying is, from the property line, which would be on the west end that is adjacent to Walnut Grove, from that point all the way around the curve and up north on Sumac to the north most property line.

**Council Member Meidinger** asked what the reason was for prohibiting parking.

**Mr. Newberry** advised that that is a very narrow street and since the library will not only be used as a library but also a meeting place for community events there could be enough people parking there that people would park on the street. If they parked on both sides it would make it too crowded for cars to go through there. By just allowing them to park on one side it would still leave enough room.

**Council Member Meidinger** asked if we would be setting a precedent there because down by the DRC and the baseball field where you have cars parked on both sides of the street would sometimes appear to be a safety concern. He questioned if we would be setting a precedent or not.

**Mr. Newberry** stated he did not really know how to answer that question.

**Council Member Craig** advised that knowing that Walnut Grove is more narrow than other streets it is narrowed down to one way traffic with cars parked on the street. He asked if Sumac will be no parking all the way up or to the boundary of the property.

**Mr. Newberry** advised that was correct.

**Council Member Craig** asked if we are going to continue Walnut Grove all the way up to where it comes up to the soccer fields? He doesn't think it should be inconsistent, that is something to look in to. If we are going to restrict parking because of 2-way traffic to the east of the soccer field where the library is going to be, obviously we should consider doing the same all the way up to the corner.

MOTION: Warren moved to approve the Special Use Permit for the proposed library site located in Lot 1, Block B, Tanglewood Addition, in accordance with the Findings of Fact recommended by the Planning Commission, with the condition that on-street parking be prohibited on the north side of Walnut Grove and on the west side of Sumac adjacent to the library project. Bannon seconded.

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

**UPDATED CODE OF  
MEETING PROCEDURE  
AND GOVERNING BODY  
MANUAL**

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

**Background:**

- Agreeing upon and following a code of meeting procedure is an important component of running an efficient public meeting. Likewise, relying on a Governing Body Manual as an orientation resource for new governing body members and as a reference for incumbent elected leaders ensures consistency of protocol and practice.
- The City Council adopted a Code of Meeting Procedure and a Governing Body Manual in March 2007 and made updates in January 2008. At the request of Council, City staff has prepared additional updates to both documents to reflect adjustments in Council policy and practice. The updates are attached and are summarized as follows:
  - In the Code of Meeting Procedure on page 11, Section 33 is updated to delete the sentence, "Except for the vote to elect the Council President, no vote shall be by secret ballot."
  - In the Governing Body Manual on page 12, the section describing the duties of the Mayor is expanded to include voting and veto powers that already exist. The addition to this manual is offered in an attempt to make this page be more comprehensive.
  - Also in the Governing Body Manual on page 12, reference to the secret ballot is eliminated, the voting procedure for the Council President is described, and the duties of the Council President are further spelled out. The voting procedure reflects the desires of the Council as voted upon at the January 8, 2008 Council meeting.

- In the Governing Body Manual on page 17, in the section about the Consent Agenda, item 10 is updated to add the sentence, “The Mayor then asks if any Council member wishes to remove an item from the Consent Agenda (so discussion can occur on the item).” This amendment is offered in response to discussion at the January 8 Council meeting as well.

**Financial Considerations:**

- None

**Legal Considerations:**

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

**Policy Considerations:**

- In adopting the updates of the Code of Meeting Procedure and Governing Body Manual, the governing body follows the adopted procedure for changing policy and practice.
- Any changes adopted at this meeting will take effect at the next meeting of the Council.
- At the January 8 Council meeting, discussion was also held about the need to develop a charter ordinance to officially establish the position of council president and its role as well as to define the process to be used to replace the mayor, in the event of the mayor’s permanent incapacity to serve. Currently, the role of the council president is to fill in during temporary absences of the mayor. The Council requested staff perform research on how other cities handle permanent absences and determine options available to the City of Derby. That research is in process. To date, the following options have been identified:
  - The Council elects from its members someone to replace the mayor.
  - The Council elects from its elected members someone to replace the mayor.
  - The council president assumes the position of mayor until the mayoral term expires.
  - The council president assumes the position of mayor until the next scheduled city election.

DISCUSSION:

**Council Member Craig** indicated the council will be greatly anticipating the part that has to do with the council and some of the situations as far as substituting for the mayor and hopes Ms. Sexton will bring that back to the council in the near future.

MOTION: Craig moved to adopt the Code of Meeting Procedure and Governing Body Manual as presented. Meidinger seconded.

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

**CONSENT AGENDA**

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

**Selection of Administrator & Inspector for HOME Rehabilitation Grant**

**Background:**

- In February 2008, the City accepted its second HOME Rehabilitation Grant from the Kansas Housing Resources Corporation (KHRC) in the amount of \$200,000 plus an additional \$10,000 for administrative costs.
- As part of the grant, the City must either employ or contract with a certified housing grant administrator and a certified risk assessor/inspector to carry out the program.
  - Grant administrator duties include determination of eligible households; environmental review; financial management; procurement of materials and environmental review; financial management; procurement of materials and bidding of projects; complying with lead-based paint hazard reduction activities; ensuring that equal opportunity/civil rights are protected; citizen participation; and close-out of all projects.
  - Risk assessor/inspector services include initial inspection of proposed homes to be rehabilitated; lead-based paint risk assessments; written scope of work and cost estimates for each proposed project; bid tours of all proposed homes to be rehabilitated; lead-based paint risk assessments; written scope of work and cost estimates for each proposed project; bid tours of all proposed homes with potential contractors; assistance with bid process and award of construction contracts; inspection of work in progress; processing of any change orders; final inspections; and clearance testing after work is complete.
- The City solicited competitive proposals for the grant administrator and risk assessor/inspector services as required by the KHRC.
  - The Kansas Department of Commerce maintains a list of certified housing grant administrators. All registered administrators received the City's Request for Proposals (RFP). One agency submitted a proposal – the South Central Kansas Economic Development District (SCKEDD).
  - The Kansas Department of Health and Environment maintains a list of certified risk assessors, from which the risk assessor/inspector must be selected. All registered inspectors received the RFP. Two agencies submitted proposals – the South Central Kansas Economic Development District (SCKEDD), located in Wichita, and Hernly & Associates, located in Lawrence.
- SCKEDD serves as both grant administrator and risk assessor/inspector for Derby's 2006 Home Grant. SCKEDD has also provided similar services to Sedgwick County and the cities of Park City, Lyons, El Dorado, Ark City and others. SCKEDD also provided assistance to the City of Derby by completing and submitting the application for HOME Grant Funds to the Kansas Housing Resources Corporation.

**Financial Considerations:**

- Grant Administrator:
  - SCKEDD: In addition to the administrative costs (5% of the total grant amount, \$10,000) included in the grant amount, SCKEDD requires payment of an additional \$3,000, a cost that was included in the budget submitted during the budget process.
  - Hernly did not submit a bid.
- Risk Assessor/Inspector: Charges for these services are on a per-project basis and are included in the rehabilitation cost for each home. There will be no cost to the City.
  - SCKEDD: \$800 for each Housing Quality Standards (HQS) Inspection and \$1,200 for each Lead-Based Paint Risk Assessment.
  - Hernly: \$600 for each Housing Quality Standards (HQS) Inspection and \$1,200 for each Lead-Based Paint Risk Assessment.

**Legal Considerations:**

- The City Attorney will review and approve a standard contract for these services to be provided by SCKEDD.

**Policy Considerations:**

- A committee of three city staff members evaluated the bids. The evaluations were based on a combination of qualifications, licenses/certifications, local experience, references and cost. The results of the evaluations narrowly favored the SCKEDD proposal, with an average score of 92/100, compared to a score of 91.3/100 for the Hernly proposal.
- It is advantageous to have the grant administration and inspection services provided by the same agency in order to assure the highest level of coordination between the City, contractors, and homeowners.

**Issuance of Cereal Malt Beverage License**

**Background:**

- Vendors of cereal malt beverages in the City are required to be licensed by the City.
- An application for a cereal malt beverage license has been received from Quik Trip West, Inc. to operate at 2501 N. Rock Road.
- Since the necessary inspections of the premises of the business are not complete, the approval of the license is contingent upon the licensee meeting all of the requirements of state statute and city ordinances.

**Financial Considerations:**

- The license fee of \$100 has been received in accordance with City of Derby resolution No. 58-2007 for limited retail. A limited retailer is permitted to sell only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises.

**Legal Considerations:**

- City ordinances establish qualifications for cereal malt beverage licenses.
- A license may not be issued until the applicant meets all qualifications.

**Policy Considerations:**

- When a cereal malt beverage license applicant meets all qualifications established by ordinance, the City is obligated to issue the license.
- Normally, the Council authorizes issuance of cereal malt beverage licenses based upon applications submitted but not yet fully reviewed and conditions the issuance on staff's determination that all requirements have been met.

MOTION: Craig moved to approve Consent Agenda as presented. Meidinger seconded.

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

**Council Member Craig** thanked public works for their work on 71<sup>st</sup> Street. It is looking better but there are still some things to be done there. It is definitely better than it was two weeks ago and thanks to Robert Mendoza and his employees.

**ADJOURNMENT**

MOTION: Craig moved to adjourn at 8:30 p.m. Bannon seconded.

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

\_\_\_\_\_  
Dion P. Avello, Mayor

ATTEST:

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