

**APPROVED
REGULAR COUNCIL MEETING
May 26, 2009
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

COUNCIL MEMBERS PRESENT:

WARD I
WARD II
WARD III
WARD IV

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

Flag salute was led by Council President Mark Staats. The invocation was led by Pastor Greg Branvold, Cross of Glory Church.

**CONSIDERATION OF
MINUTES**

MOTION: Warren moved to approve minutes of May 12, 2009 Regular Council Meeting. Craig seconded.

VOTE: Motion carried 7-1, Staats abstain.

PUBLIC FORUM

Dee Williams, Senior Services Administrator, discussed the “Dash Around Derby” summer ride card. If you need a ride to the Derby Public Library, Derby Plaza Theater or Rock River Rapids, you can buy a card that is good for transportation to these three locations at a reduced rate. You can purchase a \$15.00 ride card and get 10 rides. Ride cards can be purchased at both Dillon’s stores in Derby, City Hall and the Senior Center. These are available to anyone who wants to purchase them, but they are targeted for students. These rides will take place within the city limits of Derby only. It is a curb-to-curb service that will stop in front of the home and deliver them to the place they prefer to go.

Council Member Warren thinks this is a great idea and kudos for putting this together.

Mrs. Williams advised they put an article in the 6th grade center newsletter; they don’t have any takers yet but expect to have some after this week.

Council Member Bannon stated that this weekend is Derby Days. Friday night you can go to the parade, Saturday take your kids to the carnival and look at the business and craft show, if your kids are old enough, drop them off at Rock River Rapids and go to the garden show. There are six gardens open from 9:00 a.m. to 6:00 p.m., and it’s \$5.00 to see all six gardens. They are spread all over town and there are some beautiful gardens and hard work that went into them. She thanked Public Works staff for their efforts. There are some great bands at the high school Saturday night and the historical museum will be open.

Council Member Nun thanked Mr. Mendoza and the employees of public works for a great day last Thursday during Public Works Day. He is sure the students at the middle school and 6th grade center had a good time, it was a great effort.

**ZONE CHANGE REQUEST
FROM R-1 “SINGLE FAMILY
RESIDENTIAL DISTRICT” TO B-2A
“BUCKNER BUSINESS DISTRICT”**

Bud Newberry, City Planner presented the staff report.

Background:

- Following the recommendation of the city’s consulting firm and the direction of a citizens committee formed to study the possibility of establishing this district, staff drafted the B-2A “Buckner Business District” which was approved for addition to the Zoning Ordinance by Derby’s Planning Commission on March 5, 2009 and the Derby City Council on March 24, 2009.
- The “Notice of Public Hearing” was published in the Derby Informer on April 15, 2009. Notices were sent to neighboring property owners as prescribed by state law. The official ownership list is on file at City Hall. Presently, this site is in the Derby City Limits and is zoned R-1 “Single Family Residential.”
- Part of this process from the beginning has been to keep the affected property owners as informed of the changes proposed for their neighborhood as possible. Two “open house” style meeting were conducted at City Hall to allow concerned citizens an opportunity to express concerns and make suggestions. Periodic updates reporting progress with this process have also been presented by staff at Council Meetings. Through this process, staff has received a proportionate mix of concerns, recommendations, criticism and approval of the proposed changes, both verbally and in writing.
- Owners and realtors have indicated the difficulty of selling these properties in recent years for residential uses due to traffic issues. That same high traffic count would be a benefit if these properties were being used for commercial purposes. Re-zoning sets the groundwork for providing additional opportunities to owners wishing to sell their properties.
- It is believed that re-development of this area from residential uses to business uses will also create some opportunities for additional small businesses to locate in Derby.
- The Public Hearing was conducted during the May 7, 2009, Planning Commission meeting with three local residents asking questions or expressing concerns. Staff also received two additional telephone inquiries in regard to the proposed zone change during the week prior to the hearing. Following the hearing and discussion among commissioners, the zone change request was approved by a vote of 9-0

Financial/Sustainability Considerations:

- The zone change will not result in any expenditures by the City.

Legal Considerations:

- All conditions precedent to consideration of this proposed zone change by the Council have been met.

Policy Considerations:

- The City of Derby's Comprehensive Plan shows Buckner Street north of the intersection with K-15 as a Major Arterial.

ORDINANCE NO. 1985

AN ORDINANCE REZONING REAL PROPERTY LOCATED WITHIN THE CITY OF DERBY, KANSAS, FROM "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT TO "B-2A" BUCKNER BUSINESS DISTRICT, AND AMENDING THE OFFICIAL ZONING MAP OR MAPS OF THE CITY TO REFLECT SUCH AMENDMENT, ALL PURSUANT TO THE ZONING REGULATIONS OF THE CITY.

MOTION: Warren moved to approve an Ordinance to rezone from R-1 "Single Family Residential" to B-2A "Buckner Business District" properties along Buckner Street between K-15 and Meadowlark Boulevard as described by staff, based on the Findings of Fact presented by the Planning Commission. Horyna seconded.

Council Member Meidinger asked if in theory these properties would be more valuable since they are business locations.

Mr. Newberry advised that is the thought. We feel like their value has diminished as residential properties. He's not going to say we think they will become more valuable as a business property but hopefully they will be worth at least as much as they would have been as a good residential property. We think that these people can market these properties without having to realize any kind of a loss. Theoretically, business properties are traditionally more valuable than residential.

Council Member Meidinger asked if the properties will automatically be reappraised and the value will be increased.

Mr. Newberry advised they would not. The appraisals and the values are established by the use, so they will continue to be taxed and valued as residential properties until such time as they do become a business property. If someone buys one and establishes a business, then it will become a business property for taxation.

Council Member Craig advised it is his understanding that the city received hardly any negatives from those folks concerned with these properties. How about the adjacent properties to the east on Baltimore, were those folks fully aware of what was going on behind them?

Mr. Newberry advised they were. If you read the minutes both of the ladies who spoke at the public hearing that night don't actually live in one of the affected properties, they are both adjoining properties. One lady was concerned about how it might affect her property and he

explained that through some of the things we are requiring with landscaping, buffering, fencing and screening she shouldn't really expect any effect on her property. The other lady was actually wanting to be included in the district and we explained to her why we didn't include the properties on further to the north.

Council Member Craig clarified that we can say with a fair amount of certainty that those folks along Baltimore all know what's going on.

Mr. Newberry advised absolutely, they have all been invited to meetings at one time or another.

Council Member Staats asked if the outdoor storage restrictions are for businesses only, if you are living there can you have a storage shed?

Mr. Newberry advised you could. Anything they are currently doing in that area would be allowed to continue, especially in the residential areas. We don't want a business stacking pallets of material and stuff like that outside.

VOTE: Motion carried 8-0.

FINAL PLAT OF BOULETT ADDITION

Bud Newberry, City Planner presented the staff report.

Background:

- This site is 19.69 acres in size and is located approximately three-fourths mile east of Rock Road on 87th Street South.
- The area surrounding this property is either being used for agricultural purposes or for rural residential. Approximately 2,000 feet to the west is a 28 acre parcel being developed by the First Christian Church for sporting and recreational uses.
- The subject property is currently zoned as R-R Rural Residential by Sedgwick County, which is the appropriate zoning for this development.
- The City of Derby is not likely to be extending sewer and water services into this area for several years so the three lots will be required to be served by the Rural Water District and individual sewage disposal systems as approved by the Sedgwick County Code Enforcement Department for the time being.
- The Final Plat for this addition was approved by the Planning Commission on May 7, 2009, by a vote of 10-0.

Financial/Sustainability Considerations:

- As required by the Derby Subdivision Regulations, the developer has submitted petitions as guarantees for construction of required future sanitary sewer, water mains, street improvements and a sidewalk along Meadowlark. The estimated cost of these improvements is \$170,000. Of that amount, \$133,150 will be paid by the benefit district and \$36,850 by the city-at-large, based on the City's policy for payment of over sizing arterial sidewalks and water main lines.

- These petitions will be held until such time as larger, overall infrastructure projects are initiated in the area.

Legal Considerations:

- The Planning Commission complied with Kansas law and city Subdivision Regulations in reviewing and approving the final plat.
- This final plat should be approved by the Council unless it is determined that the plat does not conform to the Subdivision Regulations.

Policy Considerations:

- The applicant complied with all requirements of the Subdivision Regulations including execution of a Developer's Agreement.
- Upon Council's approval of the petitions as submitted, staff will submit them to Gilmore & Bell for preparation of resolutions for Council consideration in the future.

DISCUSSION:

Council Member Warren asked Mr. Newberry to point out the three lots on the map.

Mr. Newberry pointed out the lots to the council.

Council Member Bannon advised that this is currently pretty suburban, and the oversizing of the sidewalks takes a lot of future guesstimate of sidewalks out there at all and oversizing. Is that something we really feel we need? What would our normal size be and what would the oversized be?

Mr. Newberry advised that normal size would be 5 feet and oversized would be 10 feet.

Council Member Bannon asked if we thought we were going to have so much traffic out there that we should oversize those.

Mr. Newberry stated that we explain to the developers that these petitions could be held for a very long time. The comprehensive plan does show 87th Street South as an arterial someday so that's the reason for requesting the oversizing. That is a normal request for anyone along an arterial. We just do that as protection for the future.

Council Member Bannon asked if the water line would go through the middle utility easement.

Mr. Newberry indicated we have anticipated the large line will go down 87th Street. We are asking the city to pay for the oversizing along this portion of 87th.

Council Member Bannon asked if the water line on 87th is expected to tie in to the back of Quail Run addition or are we hooking in straight from 79th street to serve that entire subdivision. The sewer line should come across the Christian church property and straight across and come in the south end of Quail Run.

Mr. Newberry advised that was correct.

Dan Squires, City Engineer, advised there is a southeast sewer interceptor project under design currently that will follow diagonally through there to High Park. The sanitary sewer for Quail Run will be served on the north end.

Council Member Meidinger asked about the area west of Boulett Acres, is that in the city?

Mr. Newberry advised none of the area between there and Rock Road is in the city.

Council Member Meidinger asked if Dove Hollow was in the city.

Mr. Newberry advised it was but this parcel is not.

Council Member Meidinger asked if the one north is in the city.

Mr. Newberry advised it was not.

Council Member Meidinger pointed out we have the potential of having another donut because we skipped an area.

Mr. Newberry showed the areas that were in the city limits that would eliminate the donut.

Council Member Craig asked if there were going to be three houses since there are three lots.

Mr. Newberry advised that was correct.

Council Member Craig indicated it is a stretch that we work to a point of signing these petitions for 10 acres, that's a suburban estate to him.

Mr. Newberry advised the only reason we do that is because at some point in the future water and wastewater services will be provided. It may be 5 years, it could be 20 years, but at some point those services will be provided out there. If we go ahead at this point and get the petitions so we can get those services put in the future it saves the city a lot of perhaps even court time trying to get permission to put those in. Everybody hesitates to have to do that but we really haven't had anybody refuse to give us those petitions.

Council Member Warren does not believe we should be in opposition to this particular plat at this time, however at the last planning commission meeting he got to sit in on a similar plat that is being considered just to the east of Webb Road. It's going to have a lot of the same issues that this one has. In the future we need to put into our subdivision regulations that when we approve plats in our area of influence that are 5, 10, or 20-acre subdivisions that certainly someday will be within the city limits, we require them to do two plats. One plat that would work for them in their five-acre setting, but within that five-acre setting an additional subdivision that would be laid out so we would know where future streets would go, where future utilities would go and a requirement that they not put a permanent structure over a future street or a future utility line,

that they have to build within one of those lots. What that does for the city is, five years, ten years, or fifty years down the line when the city grows out past this we don't have these large single-use lots taking up a lot of space and that we are providing services to but we are not going to get commensurate type of tax revenue coming off of that property. If in the next five years we were to develop out past this area, we have an area that potentially could house 30 or 40 homes that has three homes. We are going to draw revenue from three homes and the value with that versus what it could be if those were on maybe half-acre lots. Hopefully at some future workshop we will put that on the list of things to do for the city to start looking at how we can incorporate something like that into the future so we don't have these large blocks of land that are going to be a hindrance to our city's future growth.

Mr. Newberry agreed. The real problem that we have with the regulations that we work with is that we deal in minimum sizes. A minimum size of a residential lot is 8,400 square feet, these lots are five acres. They exceed our minimum requirements by many times so we can't turn down a request based on the size of the lot if it's bigger than what we require. Some of the staff, including the city manager happened to be at a meeting last week that included some of the Sedgwick County planning people and we got into this discussion with them. One of the problems we have is that the county's minimum size lot for rural residential is two acres. They will approve a lot down to two acres, which as Mr. Warren said is 8 building sites in a normal residential type of development you see in the city. We were discussing that and decided that was a topic we really need to try and get some cooperation with the county on. We have agreed in principal to have that discussion before too long and try to find a solution to that problem.

Council Member Meidinger asked how it works when the Rural Water District is serving that area and then all of a sudden Derby says we would like for you to take our water, do they have to do it?

Mr. Newberry advised there are some areas that were annexed into the city limits that are still being served by the rural water district. They have the right to continue to serve those properties even after we annex them.

Council Member Meidinger asked if it was the same with sewer.

Mr. Newberry stated that sewer is a whole different thing. If they are on an approved system that has been approved by the county health department they can continue to use that system until it fails. At that time if there is service available they have to go on to it.

Council Member Craig asked what the benefit is of oversizing. He agrees with Mr. Warren, when you have something that is set up to have a 10-acre suburban ranch or a five-acre plot for a house, that takes up a lot of space. Obviously we can't force somebody to plat for future growth to sell property, he doesn't think that is within our purview. With the possibility of only three structures being there, why would we want to oversize sidewalks and the other utilities in the area unless it's pointed toward some other development that we see in the future?

Mr. Newberry advised that is the reason. East is the direction that Derby is growing so we anticipate at some point in the future there will be additional development east of this location.

We want to have the lines sized appropriately so once they are extended out further than even Webb Road possibly that they will be big enough to handle anything that is developed on out further that way.

Mr. Squires explained this will be discussed later in the water workshop about looping of water lines. It's taking a much bigger picture of what's going to be there 20 years from now and not having to replace an 8-inch line or 6-inch line that would have been sufficient to serve a few houses, and looking at the bigger picture and knowing that more than likely we are going to end up with a 16-inch line down 87th Street probably all the way up Webb Road. We are planning now to be able to do that when the time is right and have our paper work in order to do so.

Council Member Bannon stated that we paid for a comprehensive plan and in that plan according to Mr. Newberry, 87th street is supposed to be an arterial at some point in the future. While tonight this application meets our current requirements, we need to move ahead quickly with looking at some way within our comprehensive plan, if you're in an area it has to be smaller acreage because we are putting 5-,6-, and 9-acre lots on something that within a few years is going to be an arterial. She doesn't know that we need to do what Salem Township does where you have to have 40 acres to build a house or it's a subdivision, but we have to do something and do it fairly quickly.

MOTION: Staats moved to approve the Final Plat of Boulett Addition and authorize the Mayor to sign the plat and Developer's Agreement; approve the petitions submitted as security for construction of required improvements; and instruct staff to record the Developer's Agreement, Certificate of Petitions, and Final Plat. Nun seconded.

VOTE: Motion carried 8-0.

**BIDS FOR WATER MAIN
IMPROVEMENTS TO STONE
CREEK COMMERCIAL 4TH
ADDITION & DERBY
CORPORATE PARK ADDITION**

Dan Squires, City Engineer presented the staff report.

Background:

- A bid letting for the construction of Water Main Improvements for Stone Creek Commercial 4th Addition and Derby Corporate Park Addition was conducted on Tuesday, May 12, 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 Clerk:

<u>Contractor</u>	<u>Bid</u>
Middlecreek Corporation	\$536,734.00
Utilities Plus	495,046.00
McCullough Excavation	484,700.00
Mies Construction	478,755.00

Dondlinger & Sons	477,731.90
Nowak Construction	458,422.00
Duling Construction	417,555.00
Utility Contractors	415,464.00
	Engineer's Estimate*\$590,975.00

*Engineer's estimate prepared by Baughman Company, P.A.

- This project will serve the proposed Public Works Facility on 55th Street as well as the entire industrial park.

Financial/Sustainability Considerations:

- A portion of the funds for construction work is included in the 2009-1 temporary note issue.
- The contract costs will be split between the three project resolutions shown below.
- Stone Creek Commercial 4th Addition – Resolution 49-2008 (on Commerce Drive from Kohl's north to Buckner St.)
 - Costs for the improvements will be paid 100% by the benefit district (\$42,250) and none by the City-at-large.
 - Special assessments will be spread against the benefit district properties over a 15-year period.
- Derby Corporate Park Addition - Resolution 60-2008 (on Buckner St. from 60th St. to 55th St. & on 55th St. from Buckner St. to Corporate Park Dr.)
 - Costs for the improvements will be paid 71.36% (\$94,913.08) by the benefit district and 28.64% (\$38,092.92) by the City-at-large
 - City-at-large costs will be paid by the City in cash from the CIP Reserve Fund.
 - Special assessments will be spread against the benefit district properties over a 15-year period.
- Derby Corporate Park Addition (Resolution 62-2008):
 - As owner of Lot 9, Block B, the City of Derby will pay \$240,208.00 in cash from the CIP Reserve Fund for the benefit district share on Resolution 62-2008.
- The total City obligation is \$278,300.92 (\$38,092.92 + \$240,208). The approved CIP contains \$609,000 for the water and sewer mains to serve the Derby Corporate Park, \$374,000 of which was budgeted for the water portion.

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.

Policy Considerations:

- Utility Contractors has satisfactorily completed several projects in Derby.
- Utility Contractors has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents.

MOTION: Warren moved to accept the bid of \$415,464 and authorize execution of a contract with Utility Contractors for construction of Water Main Improvements to serve Stone Creek Commercial 4th and Derby Corporate Park Additions. Staats seconded.

VOTE: Motion carried 8-0.

**ARTISTIC, CULTURAL &
ENTERTAINMENT GRANT
AWARDS**

Stephanie Knebel, Assistant City Manager presented the staff report.

Background:

- In 2006, 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 two members of the City Council and City staff. The selection committee makes recommendations on allocating grant funding to the City Council for approval.
- The selection committee met on April 27, 2009 to discuss the ACE Grant applications and determine its recommendations to the City Council.
 - Members of the selection committee included: Council Member Cheryl Bannon, Council Member Health Horyna, City Manager Kathy Sexton, Assistant City Manager Stephanie Knebel, and Public Information Officer Kristy Bansemer.
 - The selection committee made the following recommendations:
 - Derby Twins Parents Week \$2,000
 - DCCPHC Summer Fest (*with \$300 match*) \$1,000
 - DRC Fall Concert \$2,500
 - DRC Triathlon (*with \$1,000 match*) \$1,000
 - The selection committee also recommended approval to re-direct the 2008 ACE Grant award for the Derby Historical Museum to focus on the relocation of the Military Display Room.

Financial/Sustainability Considerations:

- ACE funding is derived from 25% of revenues from fireworks stand permit fees from the previous year.
- There is \$23,125 available for 2009 ACE Grant awards, including \$16,875 from 2008 fireworks stand permit fees plus an additional \$6,250 from prior unspent allocations.
- The committee's recommendation totals \$6,500 which leaves \$16,625 available.

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, and the Derby Recreation Commission fit within the scope and intent of the grant program.

DISCUSSION:

Council Member Craig asked if there is a revenue projection for this year from firework stands.

Jean Epperson, City Clerk/Director of Finance, advised the city has received four license applications at \$7,500 each. June 15th is the deadline for the applications.

Council Member Craig clarified we have \$30,000 in application fees so far.

Mrs. Epperson agreed. Typically we have another vendor that will apply for three and possibly another vendor that may apply for one.

Council Member Craig asked about the lease agreement that we entered into with Big Daddy. Does that go into that fund also?

Mrs. Epperson advised it did not. That money goes to the general fund.

Council Member Haynes asked about the redirect on the Derby Historical Museum. Do these entities come to us requesting a regular grant?

Ms. Knebel advised it is an annual process. Every year we send out information to those groups, and they complete the application process providing some pretty specific information about how they are going to use the money.

Council Member Haynes stated he would like to see more money go to the museum but they would have to request that, correct?

Ms. Knebel agreed. The amount of money we are talking about for this particular request is \$2,500.

Council Member Bannon explained that last year the museum asked for money to heat the building and what happened was when they looked into it that is an older building owned by the school board and it doesn't have the juice to carry. Rewiring the electrical system was not a possibility so the military exhibit is seen by a lot more older adults and there was no way to get them upstairs, and the room downstairs was a larger room. All of these are great additions. She has been very pleased to serve on this committee. She spoke with the DRC today and the band that will be coming is a pretty well known band.

MOTION: Bannon moved to approve the following grants. Horyna seconded

- The Derby Twins summer baseball organization (college age) requested \$2,000 to sponsor Parents Week July 1-7, which would provide free admission for all attendees of 6 home games (El Dorado, Joplin, Hays [3 games], and Park City). Besides this benefit to Derby residents, the community will host 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 receive recognition on an event banner, in all correspondence related to Parents Week, in game programs, and on the electronic sign located at the Madison/Woodlawn intersection. Historically, the City has participated in this event:

Year	Award
2006	\$1,500
2007	\$2,000
2008	\$2,000

- The Derby Community Coalition Promoting Health Choices (DCCPHC) requested \$2,500 for its third annual Summer Fest in High Park, scheduled for August 29. Last year's event drew more than 60 booths and an estimated attendance of 1,600. This 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 they can participate in together on an ongoing basis. Historically, the City has participated in this event:

Year	Award	Other Requirements
2007	\$750	with \$750 match
2008	\$1,000	with \$750 match; City provide free rental of shelter and amphitheatre

Because the committee recognized the support this event provides for many local organizations, it is recommending a grant award in the amount of \$1,000 with a \$300 match of other cash contributions. The City will also provide free rental of the shelter and amphitheater and the use of one gator.

- For the past two years, the Derby Recreation Commission received ACE grants of \$2,500 to use the High Park amphitheater to provide a free community concert for the families of Derby. This concert series has brought a variety of music to the community and has showcased the High Park amphitheater, a great asset to the public park system. This year, the DRC requested \$2,500 from the ACE Grant program to assist with a consolidated, one-day event. The committee recognized that the concert is a popular event and recommends an award of \$2,500 for this year's event. The committee also cautions the DRC to give due consideration to the size of such events being planned since the

amphitheatre area, the parking lots, and the park in general were not configured or designed to support large events. The City of Derby would receive recognition by having its logo on all promotional advertising.

- The Derby Recreation Commission requested \$1,500 to support the Rock River Rapids Triathlon, a new event consisting of a 400-meter swim at Rock River Rapids, a 12-mile bicycle race with a route through Derby, Sedgwick County and the City of Mulvane, and a 5k run through High Park. Public safety assistance will be provided by Derby Police, Mulvane Police, Sedgwick County Sheriff, and the Derby Fire and Rescue Department. The committee recognized that this could be a popular annual event and should be supported in its inaugural year and recommended an award of \$1,000, provided another \$1,000 in other cash contributions is raised. The City of Derby would receive recognition by having its logo on all promotional, registration, and race day materials and event bag promotions. Expected participants total 150, including 120 from out of town. The committee requests the event follow-up report include a participant count, including those from out of town and those staying in the hotel.
- In 2008, the Derby Historical Museum was awarded an ACE Grant in the amount of \$2,500 for use in acquiring a heating system for certain rooms in the Museum. However, this project was not able to be implemented due to other facility and funding limitations. This year, the Historical Museum requested its 2008 ACE Grant be re-directed to relocate the Military Display Room. This project was identified, but not funded, in the Museum's 2008 ACE Grant application. If approved, the Historical Museum would begin to relocate this display from the second floor to the first floor. This relocation would allow the Museum to 1) become more accessible because many visitors are not able to climb stairs, and 2) have a larger space to create more exhibits due to the increased number of donations. The committee determined that the City should approve the use of funds for the display relocation.
- The committee did not recommend approving a request of \$2,500 from Reece Enterprises LLC to contribute to the repairs of the roof of the Round Barn. This use of ACE Grant funding does not meet the program criteria. However, the committee would encourage the applicant to re-apply in the future for an event or program that meets the grant criteria.

Council Member Nun asked for the criteria of the program.

Ms. Knebel explained that the program guidelines provide a description about what we are looking for in the criteria when submitted. There is also a section in the guidelines that talks about limitations and restrictions. In terms of what are we hoping to get out of these events, we are looking for events that have a broad public appeal, hopefully drawing visitors into the community. We are looking for events and programs that add diversity to the entertainment, artistic and cultural offerings available in the City of Derby. We are looking at events that promote the community and pride and increase overall awareness of the City of Derby and all it has to offer on a regional and even statewide basis. We are looking at programs that have multiple financial supporters so that this ACE grant is not the only means of funding these events. We are looking at these funds to be used for these events and not for contingencies or

debt or debt reduction, no travel and no endowment funds. It is a specific beginning and ending type of event.

Council Member Nun asked if someone came to us requesting an event at High Park and part of that event was to have a beer garden, would the criteria allow us to give them a grant?

Ms. Knebel advised that currently the way the program guidelines are written there is not a provision to say “no you can’t get money if you serve alcohol.” That being said, there would be a whole separate application process for that event to go through the special event permit application process. Maybe that event could support alcoholic beverages, maybe it couldn’t.

Council Member Nun advised that if that ordinance gets passed we may need to review the criteria for this grant.

Ms. Knebel advised that could be brought back for further discussion. The city council approves these program guidelines.

VOTE: Motion carried 8-0.

ORDINANCE PROVIDING FOR REDIRECTION OF GOVERNING BODY STIPENDS

Kathy Sexton, City Manager presented the staff report.

Background:

- At the Governing Body’s annual retreat on Jan. 20, discussion occurred as to whether it is time to consider nominal stipends for city council members. At the Feb. 10, 2009 meeting of the City Council, discussion occurred and ended with the Governing Body passing a motion (5-4) to adopt an ordinance establishing a stipend of \$100 per month beginning January 1, 2010 with wording to be added to allow each council member to accept, reject, or redirect the funds to a non-profit organization of their choice.
- Since then, additional staff research and questions from council members has resulted in the need to review the issue again at a City Council meeting because of the following reasons:
 - Acceptance or rejection of a stipend is easily accomplished using a form signed by each Council member (see draft form attached).
 - The best way of implementing the redirection provision is for the Council to adopt a list of eligible non-profit organizations (see list in the draft ordinance and on the form attached). This method makes it a decision of the Council as to how stipends are redirected rather than a decision of the individual, which should eliminate any question about taxability of imputed income.
- Members of the governing body are being designated as a special class of city employees in the Personnel Policy Manual and not eligible for any employee benefits. Any minor updates to the manual will be accomplished later this summer when the annual update to the manual is brought before the Council for review and approval.

Financial/Sustainability Considerations:

- This ordinance providing for a redirection option has no effect on the City budget.
- Stipends of \$100 per month for eight council members will cost a total of \$9,600 per year. In addition, the City's share of payroll taxes is estimated to cost \$735 annually.
 - This total amount of \$10,335 is included in the draft 2010 budget.
 - Staff research yielded the conclusion that stipends should be paid through the payroll system rather than an accounts payable transaction.
 - The employee's share of payroll taxes will be deducted from the monthly stipend prior to checks being issued.

Legal Considerations:

- The Council has the authority to pass an ordinance of this nature.
- There is no difference in the City's liability for actions of council members if they receive a stipend or if they do not. Either way, they are covered by the City's insurance for workers compensation, errors and omissions as representatives of the City.

Policy Considerations:

- The goal of a stipend is to help ensure that people of all income levels are able to serve as Council members and that concern about personal expenses does not deter people from running for elected office. A stipend is not intended to be a salary or to compensate for the value of time in service. A stipend is intended to be a token of recognition and appreciation.
- Providing an opportunity for City officials to elect to receive or redirect stipends provides for the diversity of thought inherent to this matter.
- Many other cities in the area and across the state provide a stipend of \$50 - \$150 per meeting or per month. A stipend shows appreciation to volunteers and defrays personal expenses incurred from such service, including transportation to meetings and events, babysitting, and monthly internet charges. Use of e-mail for City business is now routine and reduces the City's costs in postage, paper, and delivery of documents.

ORDINANCE NO. 1986

AN ORDINANCE AMENDING §2.04.010 OF THE DERBY MUNICIPAL CODE, PROVIDING FOR REDIRECTION OF STIPENDS FOR MEMBERS OF THE CITY'S GOVERNING BODY; AND REPEALING ORIGINAL §2.04.010 OF SAID CODE.

DISCUSSION:

Council Member Horyna asked if it's possible to add an "other" category under section C.

Ms. Sexton explained that if there are other organizations that the council wants to consider we need to get them in the ordinance. You might note if you look at the actual ordinance, the groups are actually listed in the ordinance. What we are trying to do is make it clear that these are organizations that the governing body as a whole has approved for redirection. It is not a personal decision to contribute to a personal favorite charity. If that is the case you have a higher likelihood of the IRS believing that is a taxable benefit to you. Even though you are not

seeing a dime of it they could count it as taxable because you are redirecting it. Just to be clear, the redirection does not carry any benefit in terms of deductibility from your federal or state taxes as a charitable donation. If you accept the money and it goes to you as a paycheck and then you donate your money to whoever you want, of course you can take that as a deduction, as a charitable contribution on your income taxes. The recommendation would be a vote of the governing body as passed as an ordinance. If you are not comfortable voting on this tonight there is certainly no rush until January when it goes into effect. If you have other groups you want to consider she certainly has no affinity to these. We were just trying to find a nice variety that we thought many council members would appreciate.

Council Member Haynes commended the staff for the selection. He is glad to see a lot of Derby community activity with Derby parks and the senior center. He is glad to see that to keep the money in Derby so to speak. That was one of his concerns and he had discussed that with Ms. Sexton, regarding what if he wanted to donate to the senior center or the library and we've certainly covered that. It's a personal choice if you are going to donate but he is glad to see the Derby community benefiting if someone on the council decides to donate. He appreciates staff taking the time to look at it and work it out so we can have that money stay in the community if that's the choice.

MOTION: Warren moved to adopt the ordinance as presented. Bannon seconded.

Council Member Craig clarified that the governing body has to give the okay to make donations after the council checks what they are going to do.

Ms. Sexton explained that what it means is when the council adopts the budget in August, if they don't adopt a budget that includes enough money to pay this then obviously it's not going to get paid. That's the kind of overall approval that we are talking about. It's a \$1,200 item; we wouldn't be taking that to council approval every time someone signs a form. You are approving that in general, but if there's not enough funding available that year in that line for that purpose, that would be the result of the council not passing enough funding for it.

Council Member Craig asked if that meant the governing body made that decision by budget allocation.

Ms. Sexton advised she is explaining the practical way that will happen, yes.

VOTE: Motion carried 8-0.

CONSENT AGENDA

Bids for Storm Water Sewer Improvements to The Oaks Addition, Phase II

Background:

- A bid letting for the construction of Storm Water Sewer Improvements for The Oaks Addition, Phase 11 was conducted on Tuesday, May 12, 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 Clerk:

<u>Contractor</u>	<u>Bid</u>
Middlecreek Corporation	\$153,207.00
McCullough Excavation	142,000.00
Nowak Construction	139,593.50
Mies Construction	121,608.00
Utility Contractors	121,532.00
Utilities Plus	98,890.00
Duling Construction	97,847.00

Engineer's Estimate*\$161,405.00

*Engineer's estimate prepared by Baughman Company, P.A.

Financial/Sustainability Considerations:

- Funds for construction are included in the 2009-1 temporary note issue.
- Costs for the improvements will be paid 100% by the benefit district and none by the City-at-large.
- Special assessments will be spread against the benefit district properties over a 15-year period.

Legal Considerations:

- The City followed all statutory procedures and local policies in planning and securing financing for the project, and in soliciting and analyzing bids.

Policy Considerations:

- Duling Construction has satisfactorily completed several projects in Derby.
- Duling Construction has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents.

Recommendation:

- Accept the bid of \$97,847 and authorize execution of a contract with Duling Construction Company, Inc. for construction of Storm Water Sewer Improvements to serve The Oaks Addition, Phase 11.

Bids for Sanitary Sewer Improvements to The Oaks Addition, Phase 12

Background:

- A bid letting for the construction of Sanitary Sewer Improvements for The Oaks Addition, Phase 12 was conducted on Tuesday, May 12, 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 Clerk:

<u>Contractor</u>	<u>Bid</u>
Nowak Construction	\$97,875.00

Middlecreek Corporation	93,854.00
Duling Construction	77,602.00
Utilities Plus	73,980.25
Mies Construction	62,536.00

Engineer's Estimate*\$106,120.00

*Engineer's estimate prepared by Baughman Company, P.A.

Financial/Sustainability Considerations:

- Funds for the construction work are included in the 2009-1 temporary note issue.
- Costs for the improvements will be paid 100% by the benefit district and none by the City-at-large.
- Special assessments will be spread against the benefit district properties over a 15-year period.

Legal Considerations:

- The City followed all statutory procedures and local policies in planning and securing financing for the project, and in soliciting and analyzing bids.

Policy Considerations:

- Mies Construction has satisfactorily completed several projects in Derby.
- Mies Construction has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents.

Recommendation:

- Accept the bid of \$62,536 and authorize execution of a contract with Mies Construction, Inc. for construction of Sanitary Sewer Improvements to serve The Oaks Addition, Phase 12.

Annual Motorola Maintenance Agreement Renewal

Background:

- Each year, the City of Derby enters into a service agreement with Motorola for service and maintenance of radio equipment and infrastructure within the Communications Section (Dispatch).
- Staff has received and reviewed the annual service agreement renewal for the period from July 1, 2009 to June 30, 2010.
- The service agreement provides radio and infrastructure repair and support service on a priority basis.
 - Continuous (2-hour) response for major system failures.
 - Standard business day (4-hour) response for moderate, non-critical features.
 - Standard business day (24-hour) response for intermittent or minor issues that do not preclude use of the system.

Financial Considerations:

- The amount of this year's agreement is \$13,387, which represents an increase of \$537 over last year's agreement.
- The cost of the agreement is billed to the City in quarterly statements.
- Funding for this agreement is included in the 2009 Operating Budget.

Legal Considerations:

- This agreement has been reviewed by the Legal Department.

Policy Considerations:

- All requirements of the City of Derby Purchasing Policy have been met.

Recommendation:

- Authorize the City Manager to execute a Motorola Service Agreement for service and maintenance of radio equipment and infrastructure for the period beginning July 1, 2009 through June 30, 2010.

Pay Matrix Adjustment for Court, GIS, and Engineering Technician Positions

Background:

- At its September 26, 2006 meeting, the City Council approved a new pay plan that provided market-competitive pay ranges for all City positions.
 - Updates to the pay matrix were made on September 25, 2007 for four police positions, including Sergeant, Lieutenant, Deputy Chief, and Chief, and again on October 9, 2007 for the City Planner position.
- Recent changes in the job duties of municipal court staff, GIS (Geographic Information System) coordinators, and the Engineering Technician prompted a salary survey to be conducted for these positions.
 - The salary survey indicated that an adjustment in the pay plan for these positions is needed.
- A reclassification and title change for the Court Clerk position is recommended, which would separate the position into a Court Clerk I and a Court Clerk II position. This change reflects the difference in the levels of duties performed by these positions and would also provide an appropriate distinction in the pay plan.
- A title change from Engineering Technician to GIS Technician is also recommended, as the duties for this position have shifted from CAD (Computer Aided Drafting) to GIS.
- A title change from GIS Coordinator to GIS Programmer/Analyst is recommended for the Community Development GIS Coordinator, as his duties are different from those performed by the Public Works GIS Coordinator.
- Below is the current pay matrix for the Court Clerk, Court Administrator, Engineering Technician, and GIS Coordinators, as well as the proposed pay matrix with adjusted titles, which incorporates the salary survey information:

Current 2009 Pay Matrix

Position	Department	Current 2009 Min	Current 2009 Max
Court Clerk	Administration	\$11.47	\$15.51
Court Administrator	Administration	\$16.48	\$24.72
Engineering Technician	Community Development	\$16.26	\$21.99
GIS Coordinator	Community Development	\$19.86	\$26.87
GIS Coordinator	Public Works	\$19.86	\$26.87

Proposed 2009 Pay Matrix

Position	Department	Revised 2009 Min	Revised 2009 Max
Court Clerk I	Administration	\$11.70	\$15.83
Court Clerk II	Administration	\$12.81	\$17.33
Court Administrator	Administration	\$19.13	\$25.88
GIS Technician	Community Development	\$17.01	\$23.02
GIS Coordinator	Public Works	\$21.75	\$29.43
GIS Programmer/Analyst	Community Development	\$24.83	\$33.60

Financial Considerations:

- The Court Administrator is the only employee that would see a pay increase as a result of these changes to the pay plan. The increase in compensation would be \$1,060.80 per year.
- Adjustments to the maximum ranges for positions provide opportunity for future salary growth for employees that are at or close to the current maximums. Adjustments to the minimum ranges ensure competitive starting salaries when turnover occurs.

Legal Considerations:

- Pursuant to Charter Ordinance 38, responsibility for setting salary scales for City employees rests with the City Council.
- The City Council may establish pay ranges for specific positions or classes of positions which, in its judgment and after consultation with the City Manager, will enable the City to attract and retain qualified employees.

Policy Considerations:

- The need for an organization-wide pay study can be avoided in the future if the matrix continues to be updated as needs arise.
- Since the 2006 salary study, pay plan adjustments for five positions have been approved by the City Council.

Recommendation:

- Adopt the changes to the pay matrix as presented.

Ordinance Amending Provisions for the Sale of Surplus Property

Background:

- Property that is obsolete or no longer needed is accumulated and then brought before the City Council for declaration as surplus.
- Chapter 3.12 of the city code requires that property having a value greater than \$250 be placed in a formal sale. The property must be described in a notice of sale and the notice published in at least five consecutive publications, the last of which must be ten days prior to the date of the sale.
 - This requirement was more manageable years ago when the official newspaper of the city was a daily publication.

- Because the current official newspaper is a weekly publication, it is impractical to publish a notice of sale for five weeks and wait an additional ten days before the sale.
- The proposed ordinance would allow the City Manager to determine whether to sell personal property by formal or informal sale.
- Formal sale will still be required for real property and would require publication notice for two consecutive weeks, the last publication being at least ten days prior to the date of the sale.

Financial/Sustainability Considerations:

- Cost savings of at least \$100 will be achieved by reducing the number of legal publications.
 - Prior to 2008, surplus property was sold at an auction hosted by city staff and the service of an auctioneer engaged. Establishment of internet auction sites has allowed for an expanded audience of purchasers of government surplus property and in many cases resulted in a higher sale price.

Legal Considerations:

- The City Council may prescribe procedures to be used for sale of City property by ordinance.

Policy Considerations:

- The proposed ordinance allows for efficient procurement of the highest and best bid for the sale of surplus city property through either internet or the traditional on-site auction, but gives staff the flexibility to determine the best method.
- Notice of an auction of surplus personal property can be posted on the city’s website in addition to the advertisements by the auctioneers.
- Elimination of the requirement for publication notice of sale will expedite the sale of surplus personal property and reduce costs associated with such sale.

Recommendation:

- Approve an Ordinance amending Chapter 3.12 of the Derby Municipal Code pertaining to the disposal of excess or obsolete city property and repealing the original Chapter 3.12 of said code.

MOTION: Staats moved to approve Consent Agenda as presented. Horyna seconded.
VOTE: Motion carried 8-0.

ADJOURNMENT

MOTION: Craig moved to adjourn at 7:39 p.m. Nun seconded.
VOTE: Motion carried 8-0.

ATTEST:

 Dion P. Avello, Mayor

 Jean Epperson, City Clerk