

**APPROVED  
REGULAR COUNCIL MEETING  
October 28, 2008  
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

COUNCIL MEMBERS PRESENT:

WARD I  
WARD II  
WARD III  
WARD IV

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

Flag salute was led by Council President George Arnold.

The invocation was led by Council President George Arnold.

**CONSIDERATION OF  
MINUTES**

Minutes of the October 14, 2008 Regular Council Meeting.

MOTION: Warren moved to approve minutes of October 14, 2008 Regular Council Meeting. Craig seconded.

VOTE: Motion carried 7-1, Meidinger abstain.

**PUBLIC FORUM**

**Don Myers**, Congressman, spoke as a citizen of Derby. He does not want to minimize the decisions that the council has to make, or the decisions that the engineering department has to make. When you have to make decisions that affect other people's lives, it's tough, he has been there. Two years ago we received notification from Family Circle that we are one of the ten best towns for families, he is proud of Derby. The city and codes ordinances that we have, have helped us to maintain our property values. When they are properly enforced, the equity in homes not only remains stable but many times can increase. If you live next to someone who does not take care of their property, your value goes down. He has been in real estate for over 30 years and there is a council member who has been in real estate at least that long, he knows what he says is true. If people do not take care of their properties, your equity goes down. When we promote and maintain our homes the equity that you build, and most people, the biggest equity they can ever build is in their home. This is true especially with some of the older folks, the biggest equity they have is what they are living in. Although he doesn't recommend it there is such a thing as negative mortgages, you can actually live on the equity in your home. He says this to address something that is coming up later on the agenda. The planned project on north

Buckner is surely going to affect the equity of those homeowners in that area. He is not an appraiser but he knows when you do to those homes what is going to be done, if you can find a buyer for your property it's going to be less than what's it's really worth. There is at least one home owner that has lived there for 36 years, raised a family there and built on to the back of their home. It's a beautiful home. He doesn't know what he's going to be able to do with his home. Six or seven years ago this same project was considered. He does not think anyone on the council today was probably even on the council at that time. The plan considered then is similar to the one being considered now and it was stopped at that time. That was before the present extensive development that is going on on Rock Road was probably even conceived. He does not know that we know what the effect is going to be on the traffic on Buckner, will it go up, will it go down? His guess is with the big movement to the east side of the city Buckner's traffic is not going to continue increasing and may even continue decreasing. Is it possible we might be making a mistake by spending that kind of money on Buckner and reducing the equity on some of those homes? It's not fair and he is asking the council to consider this. Presently, parking is allowed on the east side of Buckner, that's not really very safe. Eliminate the parking on Buckner and as a city assist those who do not have double driveways with a parking pad. Don't alter the street other than taking away the parking on the street. That would provide three fairly sizable lanes in that street. The engineering department can determine if they want to go two south and one north or reverse that depending on the traffic flow of the day. There is already a turning lane going north to get onto Meadowlark, it needs to be dressed up a little bit and needs some curbing, but that is a solution that could be handled without the cost of \$1.6 million to the city. He suggests that the city put this project on hold until we get some traffic counts in a couple of years and find out exactly what's going to happen with the traffic on Buckner, it could very well be that it's going to be even less. Let's do what we can to be fair to the homeowners. Do like he did, stand on the front porch of some of those homeowners, look at the stakes and how close this is going to be to their house. Put yourself in their shoes and understand how they must feel and what their concerns must be at the potential loss of their front yards and potential loss of equity in their property.

**Loy Lombard** thanked the city for lowering the speed limit from 40 mph to 30 mph on southbound Buckner at the intersection. As she has addressed the council before she would like to formally request a new traffic volume and accident count at the corner of Buckner and Meadowlark as the counts were taken prior to the expansion and development of Rock Road, causing that traffic to be diverted onto Buckner and Meadowlark. Since Rock Road has opened there has been an appreciable decline in the number of motorists through this intersection and she would guess a decline in the number of accidents as well. Since becoming a household engineer earlier this year she is aware of only three accidents at her corner since May. Two of those accidents were on wet streets and one of those ended up in her driveway causing her to request an 80-foot circle driveway and short barrier wall. Yesterday as she traveled south on Buckner from 63<sup>rd</sup> towards Meadowlark towards the peak of aircraft traffic she discovered how the current inner lane of the intersection designed as a left turn only lane seems to be a traffic hold up. What she witnessed was four cars in that lane but the outside lane was forced to back up to nearly the fourth house from the intersection. That lane is currently being used for either a continual south lane or a lane to turn westbound on Meadowlark. There is no designated left turn lane at the intersection for either east or west bound Meadowlark to turn on Buckner. There is for Buckner when turning onto Meadowlark. She suggests to not reconstruct the intersection

but to change the traffic lanes and signals by removing the left turn only requirement and exchange the signals making the Buckner lanes and lights match those at the Meadowlark lanes and lights. With the reopening of Rock Road and our city's growth being to the east of Woodlawn and south of Chet Smith she does not see the need for the planned major redesign. In her opinion, gas tankers should not be allowed to travel between K-15 and 63<sup>rd</sup> street Quik Trips via Buckner or Meadowlark. They should be required to use K-15 and the newer, wider, safer and better designed 63<sup>rd</sup> street, which would effectively safeguard residential neighborhoods from possible harm. It also seems that the 900-1400 blocks of North Buckner are indeed being used as a shortcut to K-15 as she is routinely seeing Lafarge cement trucks and various semis traveling that section for what seems to be no other purpose than to reach K-15. As an area resident she opposes the widening of Buckner and suggests resurfacing, restriping and installing a continual third lane and adding parking pads as Mr. Meyers suggested. If you really need to spend the money please consider redesigning the area around the K-15 and Meadowlark Quik Trip so that traffic would not be so greatly affected by the access street, train traffic or the inability to access either direction of K-15 when traffic wanting to cross the streets is holding up lanes of traffic. This is where you should be looking rather than Buckner and Meadowlark.

**Dale Pritzkau** has been a resident of Derby for six years. This project will seriously decline the property values in that area for little perceived benefit. You want to turn that into a heavy traffic area when K-15 is only 1.5 blocks away. It seems unnecessary. He thinks the money would be better spent at a more dangerous intersection such as the one Ms. Lombard just mentioned. Just this evening he was nearly t-boned there. He is surprised someone has not been seriously injured at that intersection. He requested the council consider the alternatives and does not feel we need this project as listed.

**Dennis Flax** believes the real issue is not necessarily with the east/west traffic it's more with the north/south. The current proposal is to reconstruct the entire thing and it will wind up taking about 1/3 of his front yard and reducing his parking space from 4 off-street spaces down to 2. There is no on-street parking on Meadowlark and that will seriously devalue his home. He has only owned his home for about 2-years, so unlike some people he has not built up enough equity to have a devaluation so within a year he thinks he will be in the hole with this property. He has already settled with the city for a temporary construction easement, he's not happy about losing 1/3 of his front yard but he really had no choice because eminent domain was threatened to be used. With the U.S. economy a wreck, shrinking federal, state and local government revenues, sales tax revenues are declining, property tax values are under stress, new home construction is probably about to stall, therefore the overall Derby property tax base will stall soon thereafter. Derby's impact may not have been felt yet, but its coming. With all these budget constraints on the horizon, surely there are better uses for our construction dollars than this intersection and the high cost option being pursued. He is not an expert on road construction and DOT funding and rules, some will say that the state is paying for most of the cost, however we are all state taxpayers and the council has a fiduciary responsibility to spend our tax dollars wisely both at the state and city level. He asked that the council investigate the alternatives proposed which will minimize the property devaluations that will result from the proposed reconstruction. He personally will suffer a property value impact but due to the existing easements he received no compensation for this. Many others at the intersection will suffer an even greater property value impact than he and he asks the council to consider the lower cost and less disruptive alternative

versus taking the easy route that is currently underway which is just to continue doing what we are doing. Others have brought up that the traffic counts were measured during the Rock Road project and he asks the council to have the traffic counts remeasured to obtain accurate information. The issues if any are north/south constraints, not east/west problems. He again asked the council to reconsider the project and pursue the lower cost alternatives proposed or abandon the project.

**Holly Hays** advised she opposed the project based on the possibility of losing equity in her house that she has lived in for the last three years.

**Martha Salmon** has lived in her residence for the last 30 years. She is strongly opposed to the widening of the street to four lanes. She thinks that what Mr. Myers suggested, having three lanes, prohibiting parking in the street and providing parking pads for the residents would be her suggestion for the safety of all.

### **PROCLAMATIONS:**

Mayor declared November 20, 2008 as **Great American Smokeout Day** in the City of Derby.

**Vicki Walton** representing the Derby Community Coalition Promoting Healthy Choices accepted the proclamation and commented that as most of you know we worked very hard to get the clean indoor air ordinance passed in Derby and we were successful in getting a comprehensive one. We hope the people that smoke will take November 20<sup>th</sup> to try and quit and help contribute to our clean indoor and outdoor air in Derby.

Mayor declared October 23-31, 2008 as **Red Ribbon Campaign Week** in the City of Derby.

**Interim Chief Chambers** accepted the proclamation and advised everyone that if they want to participate in the Red Ribbon campaign they have additional red ribbons at the police department.

### **PRESENTATIONS**

Wichita State South Campus Update.

**Dr. Keith Pickus** stated that about a year ago standing in front of this group they were just a fledgling satellite campus compared to where they are today and where we are going to be a year or two years from now. It's really a great day to be a Shocker and a partner with the city. A year ago they were offering courses at the Derby High School much through the generosity of the City of Derby and the Derby School District and we offered 20 courses. This past spring when we moved into our new campus in Towne Center we offered 30 courses, this fall we have 45 courses servicing over 600 students and in the spring we are anticipating having 52 courses. It's not just a numbers game we are about, when we set out to establish this facility we engaged in a conversation with the people of Derby and south Sedgwick County trying to figure out what

would be the best educational opportunities we could provide. What we are doing is looking to move beyond just a smattering of courses but to offer specific educational programs that we think will be particularly attractive. These programs include the accelerated nursing program that we inaugurated this summer, it is a cohort of 30 students who will complete an RN degree in 16 months and be able to work in the area as nurses. We are offering a broader range of courses including business courses and are exploring opportunities to offer both undergraduate degrees in business and possibly even a master's degree and have had some conversations in the past few weeks about this. He introduced the assistant director, Dr. Michael Young who really made the south campus come to life. Last time we were here a year ago he worked with Celia Goering who was the director of satellite campuses, she has since retired and Dr. Susan Norton has taken her place. Susan and Michael will be overseeing the efforts as we build an even stronger educational presence at the south campus. Looking ahead, one of the most exciting initiatives will be with our college of education. The College of Education has been offering a cohort program at the satellite facility with Cowley County and also in Mulvane. Beginning in the fall the College of Education will be offering classes at our facilities. One of the ways we are going to be able to do this will be installing what is known as interactive distance learning facilities so we will have the ability to both offer courses from the south campus that connect with other sites that have interactive distance learning, whether it be our campus, the west campus or throughout the State of Kansas. We will be installing this equipment over the winter break with the idea that it will be tested in the spring and in the fall we will have our College of Education cohorts and hope to move into master's programs to give our local teachers the opportunity to get their master's degree while they are working in this area. We are also looking into the possibility of creating business degree programs for people in south Sedgwick County whether they be at the undergraduate or graduate level. We think that is something that will be very valuable down here. Something we are particularly excited about as we look ahead will be the implementation of our adult learner programs. This is something he has been working on for quite a while and one of the great things about having Susan join our staff is that this is her area of expertise. We hope that by fall of next year to be offering adult learner programs specifically designed for working adults who may have some college credit already and are needing to advance in their careers and provide the environment through accelerated courses, intensive advising and scheduling that enables adults to get their degrees in a timely manner. We think this will be a signature program at both our south and west campuses and we look forward to partnering with you. We couldn't be more pleased with the response of the local community to our courses. The merchants have been wonderful and it's a real pleasure to be a member of the Derby community.

## **EMPLOYEE SERVICE AWARDS**

**Kathy Sexton**, City Manager presented the employee service awards.

### **Background:**

- Since 1992, the City of Derby has participated in the League of Kansas Municipalities Employee City Service Awards program, which recognizes employees for years of service to any City in Kansas.
- This year, the City is once again participating in the program and will recognize employees for their service to the City of Derby. Awards are made in five-year increments, beginning with five years of service.

- In 2007, we began recognizing Council members for their years of service as elected officials. Their recognition begins at eight years of service, and thereafter will be recognized in accordance with the employee schedule (i.e., 10-year and then 5-year increments).
- This year, we have 19 employees we are recognizing for years of service:

**Employees**

<b>5 Year Award</b> Melinda Scott Barry Nickel	<b>15 Year Award</b> Shelli Adams Charlie Brown Tim Nelson	<b>20 Year Award</b> Frank Knipfer Joe Smith Renee Doyle Andy Cullum Roger Emerson Tony Russell Larry Alumbaugh Tim Brant	<b>25 Year Award</b> Doug Chambers	<b>30 Year Award</b> David Longar Peppi Schroeder
<b>10 Year Award</b> Larry Hampton	Dee Williams Bill Pater			

**Financial Considerations:**

- Service award recipients with fewer than 20 years of service will receive a polo shirt and mug. Employees recognized for 20 or more years of service will receive a polo shirt and either a jacket or sweatshirt. Sufficient funds are budgeted to support the cost of these items.

**Legal Considerations:**

- Because of their salutary effect on morale, purchase of employee service awards is an appropriate expenditure of City funds.

**Policy Considerations:**

- Recognition of employees and Council Members for their years of service is recommended by the League of Kansas Municipalities.

**Recommendation:**

- Receive and file the report

Mayor Avello thanked the police department employees for everything they do.

**RESOLUTION  
AUTHORIZING THE  
SALE OF G.O. BOND  
SERIES 2008-B**

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

**Background:**

- The proposed action is the authorization to market bonds, which is the final step before the actual approval of the sale of general obligation bonds.
- General Obligation Bond Series 2008-B will provide permanent financing for special assessment internal improvement projects within the City of Derby as follows:
  - Derby Marketplace Second Addition
  - The Oaks Addition, Phases 7A and 15
  - Mac’s Corner Commercial 2<sup>nd</sup> Addition
  - Kwik Shop 2<sup>nd</sup> Addition
  - Stone Creek Addition, Phase 6A

- Tall Tree Addition, Phase 1
  - Spring Ridge Addition, Phase 2
- The “pay-in” period for advance payment of special assessments associated with this bond issue ended Thursday, October 23<sup>rd</sup> at noon. The final amount of prepaid specials, which will determine the exact amount of the bond issue, will be addressed at the council meeting, and the final version of the resolution will be available at that time as well.
- In addition to the special assessment projects, the bonds will provide permanent financing in the amount of \$2.1 million for the remainder of the city’s share of the Rock Road reconstruction project.

**Financial Considerations:**

- The bonds are being spread over 15 years and will mature December 1, 2024.
- The proposed resolution provides authorization for the redemption of Temporary Notes Series 2007-1, which matures December 1, 2008, and a portion of Temporary Notes Series 2007-2.
- The bond sale will be held November 13<sup>th</sup> at 11:00 a.m. followed by a Special Council meeting for approval of the sale at noon.
- Bids for the bonds can be submitted via the Internet using the services of PARITY at www.tm3.com in addition to the usual methods of facsimile and mail.
- Due to recent volatility in the bond market, the city’s financial advisor and bond counsel continue to monitor conditions and as November 13<sup>th</sup> approaches will advise of any alternate options to the City to achieve the most prudent financing.

**Legal Considerations:**

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

**Policy Considerations:**

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

RESOLUTION NO. 47-2008  
 RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL  
 OBLIGATION BONDS, SERIES 2008-B, OF THE CITY OF DERBY, KANSAS.

DISCUSSION:

**Council Member Bannon** asked if there were any guesses on interest rates.

**Greg Vahrenberg**, Piper Jaffray advised that they have dealt with a number of challenges throughout the last year and those challenges have really been magnified in the last 4-5 weeks with some of the most recent events in the financial markets. During that period of time we saw a lot of the larger institutional investors selling their holdings of municipal bonds and a lot of investors retreated to the sidelines and weren't making any investment decisions and holding on to their cash. All of that resulted in interest rates increasing fairly dramatically about 2-3 weeks ago. We have seen that trend reverse and have not seen the large liquidations by institutional investors; we are seeing investors coming back to the market and are seeing some issues being scheduled for sale. During the last week to ten days we have watched interest rates settle back down a little bit. It is definitely a more challenging bond market than we are used to but the good news for the city is that with your credit rating and your reputation in the bond market he thinks the end result will be favorable. We are looking at an interest rate of somewhere around 4.4% based upon today's interest rates. It is more challenging to get to that point but from the city's perspective the borrowing costs will be a favorable borrowing cost and that is our most current projection, 4.4%. He added that if they see something happen in the bond market, we have been working with staff to develop some options in case November 13<sup>th</sup> would not be a favorable day to sell the bonds and they are prepared to bring a recommendation back if they see a reason to adjust course in the next couple of weeks.

**Council Member Bannon** asked where we will be after we sell these bonds on our debt ratio.

**Mrs. Epperson** advised we are just slightly over 20%, at 20.62%.

MOTION: Horyna moved to approve a resolution authorizing the offering for sale of General Obligation Bonds, Series 2008-B, of the City of Derby, Kansas. Arnold seconded.

VOTE: Motion carried 8-0.

## **STATUS OF BUCKNER REDEVELOPMENT PROJECT**

**Charlie Brown**, Director of Community Development presented the staff report.

### **Background:**

- Derby's Capital Improvement Plan (CIP) includes two projects on Buckner north of K-15:
  - Intersection Improvements at Buckner and Meadowlark. This project was approved for KDOT safety funds due to the accident history and non-standard lane alignments. Each leg of the intersection will have a dedicated left turn lane with two through-lanes each direction.
  - Reconstruction of Buckner between K-15 and Meadowlark. This project is funded entirely by the City.
- Land acquisition for the intersection project has recently been completed. Utility companies have committed to having their facilities relocated as necessary by the end of the year, and KDOT has scheduled the bid opening for the project in December, with construction starting early next year.

- During the land acquisition process, several residents expressed their concerns to the Council via email or Council Meeting Public Forum. All residents and owners have been notified by mail of the proposed status report scheduled on the October 28<sup>th</sup> agenda.
- While the two projects are funded and will be administered independently, City staff will strive to coordinate the two projects in such a manner to minimize inconvenience to the public.
- This status report will focus on the reconstruction project between K-15 and Meadowlark.

**Project History:**

- Buckner Street, from K-15 north to Meadowlark, is generally the dividing line between B-3 commercial uses on the west and R-1 residential uses on the east.
- This roadway is in serious need of repair. It is approximately 41’ wide, striped as a 2-lane road, with parking allowed on the majority of the east side.
- Staff recognized the need for improvements several years ago, but due to citizen complaints at that time, the City Council opted to delay those improvements.
- The roadway has continued to deteriorate, and Public Works has been reluctant to perform costly temporary surface repairs knowing that a major reconstruction/widening project would be undertaken.
- In February 2008, the city selected the consulting firm of Ruggles & Bohm to study the corridor, including alternative pavement widths and the possibility of rezoning the residential properties to a low-impact commercial district such as our B-1 “Office Business District.”
- During the initial study phase of this project, Ruggles & Bohm analyzed existing traffic conditions, estimated future traffic volumes and calculated Level of Service for this section roadway.
  - The historic traffic volumes increased steadily from the 1970s until 2000. Between 2000 and 2006, traffic volumes south of James remained steady at about 7,000 vehicles per day, with volumes north of James actually decreasing from about 8,800 vehicles per day down to 7,900 vehicles per day. Recent counts (in 2007) however show a reversal of that trend, increasing again to about 8,400 vehicles per day north of James.
  - The traffic analysis assumed redevelopment of the east side of Buckner to office uses, resulting in the future traffic increasing to about 9,100 vehicles per day north of James and increasing to about 9,600 vehicles per day just south of Meadowlark.
  - The consultant’s analysis concluded that a three-lane will provide an adequate level of service for both the existing and future traffic loads.
  - From the analysis, two alternative roadway sections were proposed.
- On March 6, 2008, an open house was conducted at City Hall to allow property owners, tenants, and concerned citizens an opportunity to voice their opinions and concerns regarding the options developed by the consultant:

Roadway Option A: Total reconstruction to a 3-lane width (1 through-lane each direction plus a continuous center left-turn lane).

This option is the least expensive, but eliminates all parking on both sides of the road. If redevelopment would occur on the east side, an additional lane may be required to be constructed in the future.

Roadway Option B: Total reconstruction to a 4-lane width, but striped as a 3-lane roadway, allowing continued parking on the 4<sup>th</sup> lane.

This option is obviously more expensive due to the extra width, but does allow parking to continue. Upon redevelopment of the properties on the east side, additional traffic generation may require converting the 4<sup>th</sup> lane (parking area) to a new through-lane. As this redevelopment occurs, it is assumed that the required parking would occur on the rear of the properties or certain lots could be cleared for community parking.

Zoning Options: From a planning point of view, it is generally not desirable to have a roadway be a dividing line between commercial and residential zoning districts. These types of uses have diverse functions and conflicting needs relating to traffic, lighting, access, etc. The consultant basically provided a “Yes-or-No” option to rezoning all residential property in the corridor o B-1 “Office Business District.”

- Data collected from the citizens at the open house did not lead to a clear consensus on either the roadway width or the rezoning.
- On March 25, 2008, the Buckner Redevelopment Committee met to review comments from the public and to develop firm recommendations to the City Council. This committee included Council members Warren and Bannon; Planning commissioners Justin Smith and Keith Volz; Economic Development Board members Colene Read and Jennifer Druhard; Rhonda Cott, President of the Derby Chamber of Commerce; and City Staff Kathy Sexton, Dan Squires, Bud Newberry and Charlie Brown.
- After considerable discussion, the Committee unanimously agreed to recommend the following:
  - Reconstruct Buckner to 4-lane width.
  - Stripe new roadway for 3 lanes, with the 4<sup>th</sup> lane used for parking.
  - Construct Bike Path from James to Meadowlark on the west side of Buckner.
  - Construct 5’ sidewalk at all other locations, minimizing conflicts with existing landscaping and utilities, and locating sidewalk near back of curb at driveways to maximize space for driveway parking.
  - Construct signalized pedestrian crossing just north of James.
  - Initiate rezoning of all residential properties to a special overlay district customized for the area that would generally include B-1 and some B-2 uses.
- At the May 13, 2008 City Council meeting, City staff presented the Buckner Redevelopment Committee’s recommendations unanimously 6-0 (Meidinger and Nun absent). Discussion items included:
  - The Comprehensive Plan shows Buckner to be a “major arterial.”
  - The proposed re-zoning would comply with planning standards of transition zoning between commercial and residential districts.
  - The proposed re-zoning would comply with planning standards of transition zoning between commercial and residential districts.
  - The proposed re-zoning would provide options for small service-type businesses to the more expensive Rock Road corridor.
  - Traffic volumes, especially north of James, are now increasing, with the most recent count at approximately 8,400 vehicles per day.

#### **Financial Considerations:**

- Previous Capital Improvement Plans had assumed a 1-lane widening and overlay rather than total reconstruction. Previous CIP had \$450,000 for this work. However, the latest estimate for total reconstruction is approximately \$1,600,000. This amount was approved by the City Council as part of the 2009 budget.

- The consultant presented their proposal to design the project for a lump sum amount of \$88,900, which was approved by the City Council on May 13, 2008.

**Project Status and Schedule:**

- The geotechnical analysis and report is complete. From that analysis, the pavement design (thickness and materials) has also been completed.
- Survey field work is complete.
- Preliminary plans are now being prepared by our consultant. Office check plans are scheduled to be submitted to City staff next month. Final plans are scheduled to be submitted after the first of the year, with a bid opening anticipated in early spring.
- Regarding the rezoning of residential properties, City staff has conducted multiple meetings with the consultant and will have recommended permitted uses ready for committee consideration in the next few weeks. Additional zoning items, such as lighting, landscaping, screening, signage requirements, etc. will be drafted this winter.
- As with all zoning amendments, a public hearing along with Planning Commission and City Council approval will be required. This work can be accomplished independently of the construction schedule.
- As stated earlier, City staff will strive to coordinate the construction of the intersection project and the street construction project. Proper coordination will result in reduced costs and construction time for both projects.

DISCUSSION:

**Council Member Meidinger** thinks the street should be a three lane street with a turn lane. When you start talking about that fourth lane you start talking about future commercial uses. The citizens of Derby are being asked to put in a fourth lane for future commercial development. He stated we should address that when that time comes. If there is going to be commercial development in there let those guys pay for the street if they want it. He doesn't think the citizens of Derby should be paying for a commercial development. Then it gets down to a quality of life issue for the current residents. The current residents bought and lived on that street for a number of years and for us to come in there between James and Meadowlark and start changing the rules is very similar to changing the rules in the middle of a ball game, you just can't do that to those people. He has talked to those guys on the street and they say the utilities are going to come in and miss the trees. He just doesn't think it's fair to those people to start coming in and moving those utilities because once that happens the root systems of those big trees are going to be disturbed. He appreciates the fact that the speed limit was lowered north of Meadowlark. He also thinks we are making a commercial shortcut for the concrete trucks. He does not think Buckner is built for that kind of traffic. We have K-15 and Rock Road; these trucks will save a minute or two minutes at the most. Put them on the streets that they belong on. As far as future rezoning, he thinks he heard the comment that the reason for this rezoning was because people couldn't afford to go out on Rock Road and build a business out there because the land is so expensive and this would be cheaper land. He doesn't think the city should get involved in artificially zoning property to get a lower base price for a commercial development. If we are going to do this the city should step up and say okay, on Buckner from Meadowlark to K-15, buy the whole east side if we want to have a commercial development there. He probably wouldn't favor that, he says it tongue in cheek. When the two plans were discussed, were the residents on Buckner advised that that area could be rezoned if it went to four lanes?

**Mr. Brown** advised they were, although there was no clear consensus on that item.

**Council Member Meidinger** advised he is not in favor of the four lanes. Obviously he is in favor of the reconstruction of the intersection but this other one is just not fair to the residents in that area.

**Council Member Warren** stated that part of the difficulty in this situation is that this was an area originally designed in the 1950's before any of us had any idea of the kind of traffic that Buckner was ultimately going to take on. Even from the 1960's through the 1980's when Oliver ultimately was changed at the intersection to where Oliver now comes into Buckner was probably the biggest thing that had a tremendous affect on the amount of traffic that comes down Buckner. Some things were outside of our control and some things were decisions that were made 50 and 60 years ago before we knew what was going on. There is not going to be an easy solution to this whatsoever, that's the bottom line. The city looked at it 10 years ago when Mr. Lavergne was mayor and it was not going to be popular then and they passed the buck. We can either pass the buck or we can deal with it and he thinks it's time to deal with it. The reason he favored the fourth lane had nothing to do with the possibility of future commercial development but was the fact that if we go with three lanes and eliminate parking on the street was that the fourth lane was actually going to give the majority of the residents additional parking. When we get to the Buckner intersection there are no easy solutions at that intersection. But for the majority of residents along Buckner street they are going to end up with more parking options if we put in the fourth lane than if we go just with the three lanes because by the time you put the sidewalk in, there's just nothing there. His personal feeling is that the majority of the people will benefit from the fourth lane that we have from that standpoint. He has no problem barring truck traffic. The rezoning aspect again goes back to the inability to see far enough into the future back when this was done in the 1950's to make the right decision. He thinks that the possibility of allowing this zoning to go to some kind of a specialized light commercial zoning will be to the benefit of the residents. If, because of the amount of traffic that is in that area the residences are going to lose value because of the traffic, if there is an alternative for them to sell that property for commercial, it may be at a greater value than they could ever sell their property on a residential standpoint. He doesn't know that is a fact but it certainly has some possibilities. A business that might not be able to go out onto Rock Road, to come into this area and buy a lot at \$80,000 a piece, or two for \$160,000, that might be greater value than those folks would ever get from a residential standpoint. He thinks that it at least holds the hope and possibility of a greater value if we allow for commercial zoning in this area versus requiring it to remain residential. He wishes there was a magic wand to put over this and add 60 feet to the whole project so that the curbs would be back further but the reality is that this is a street that carries a lot of traffic. We're not making the change to try and get more traffic, the traffic is already there. We already have more traffic going down that street than it is designed for and it's something we have to do as difficult as it is and as unpopular as it's going to be, it's something we have to do. It's not a perfect plan but he thinks it is the best plan and we need to proceed.

**Council Member Horyna** stated that throughout the state and many cities the price of asphalt has really made a difference in whether they pursued the project or not. Will the cost of the asphalt and the availability affect this construction?

**Mr. Brown** stated that certainly asphalt prices are very volatile as oil prices are volatile. Obviously we have seen oil prices go way up in the last few months and are way back down

again so asphalt is very affordable right now. One thing you have to consider as an alternative is concrete, of course, but concrete prices went up basically on a parallel with asphalt because of increased cement prices. Asphalt is very available locally, we have a great group of asphalt contractors, great materials in this part of the country for sand and aggregate and fairly reasonably priced asphalt oil also. It's still a viable project cost wise.

**Council Member Craig** advised he has checked with some folks that have been in this town for a long time and could not remember the last time Buckner was really reworked as a major street so it has been a long time. At the very beginning the vote was 6-0 and he spoke as a minority against that and in favor of the three lanes and that is still his position. Backing out into traffic with cars parked on the lane is not a good idea. He doesn't think there is any safety guy that would go that way. We need to move on and get this project done next year because the street is collapsing. He pointed out on a visual that we are going to take "x" number of feet from the east side of the road and asked Mr. Brown how many feet that is.

**Mr. Brown** advised it is 10-feet.

**Council Member Craig** stated he had suggested before that you don't have to take that 10-feet, however, in the plan there, if it ever came to it in the future that would be another lane moving either north or south. In his opinion back in May was that if you do not add that fourth lane that protects the residents parking until someone decides they need another lane as Mr. Meidinger had mentioned. He thinks that would protect the residents and guaranteeing more parking for them on their own property rather than on the street. He is in favor of moving on with the project. That evening he made up his mind that the consensus of the council was in the best interest of Derby and that's why he voted for it. He does believe we should provide future options for sale of the property by widening the ability of different zoning so it could either be sold as residential or commercial and that would give the property owner a better chance of retaining value for future sales. He agrees with Mr. Warren that we should not take a step backwards, but move forward. He does not think we should change the plan unless this council comes to a unanimous consensus that three lanes versus four lanes is a change. He is still for the three lanes but if the council is not going to change their position on that we just need to move forward.

**Council Member Bannon** thanked the public, we don't always get to hear from the public and it has been very beneficial. At one of the last meetings Mrs. Lombard mentioned the speed limits, a number of the council and staff took note and that has now been changed. There has also been conversation about the through truck traffic, she asked Mr. Brown about the feasibility of stopping the truck traffic.

**Mr. Brown** advised that as far as he knows it is very viable to limit truck traffic on any street in Derby.

**Council Member Bannon** advised she believes that is something that would definitely help. Nothing is going to solve this, as Mr. Warren pointed out there is no magic wand or we would wave it on a whole lot of things. She thinks lowering the speed limit will help. She has been

involved in this project from the very beginning, she was at the open house meetings and she has talked to the engineers. She thought she knew which way she was going to go and the more educated she became the more things it brought up. In the beginning she thought we didn't need to do it that way, we don't need to make this wider or rezone it. In looking at it, Buckner has never been a quiet side street. Whether you like it or not, whether you've lived there 5 years or 36 years, it has always been a busier street than one of your other side streets would be. She doesn't know that it has had an arterial designation for the entire 35 years, but it's always been a busy street. It's in need of repair all the way down and when we spoke with the engineers one of the things that helped her make up her mind, your curb and gutter is one of the most expensive and you're going to have that cost whether your at three lanes or four lanes. Going to the fourth lane didn't do anything except help plan for the future and that's one thing we can't be short sided about. Number one, just from the city stand point of being short sided and number two, from a fiduciary responsibility. If we are going to rebuild this entire road, why would we only want to do it for three lanes when it's not costing that much more to do that fourth lane and plan. Plus, it gives the homeowners the current off street parking that they now have and use. If you take the off street parking away on the street right now and you have the sidewalk there, you are dramatically decreasing the parking availability. We are a group of volunteers up here, other than the mayor and we do our best to make the best decisions and we really try to listen and make the changes that are feasible and can be made. Yet we have to look to the future and make the best decisions that we can there as well. The council has passed this and she is glad that staff and the public has taken the time to revisit this issue because we have made some good changes and she thinks there are some more that can come. Education and communication are the best things we can do in this situation but we need to move forward and do the project. It's one of those that's going to hurt but in the long term she thinks we are making good choices.

**Council Member Meidinger** advised this didn't really start with K.O. Lavergne, he remembers when Don Storck was the mayor, we were going to make a left hand turn lane at Buckner and Meadowlark and that got everyone's attention and we chose not to do it at that time. He favors the three lane program and as someone said, being realistic; if anyone of us lived on that street we would want no part of that four lane project. He feels badly that we the council that don't live on that street are making a decision that is going to impact those people not only financially, it's their quality of life and it's just not a good project. When you put the fourth lane in simply for a future commercial development it absolutely is not fair to those people.

**Council Member Craig** stated that we should take immediate action to post Buckner as no truck traffic south of Meadowlark and also one on K-15. Those trucks that deliver to Taco Bell and Dillon's can use the frontage road and find a different way there. He thinks it's important that we get some of the truck traffic off of that because those are big trucks. We have to replace the street because it is just too rough. We need to move forward.

**Mr. Brown** pointed out that Taco Bell really has one point of access and that is off of Buckner, there is no access to Taco Bell off of K-15 or the frontage road. We will have to look at that as we analyze this truck issue. He emphasized the fourth lane does provide more parking than the three lane option. He advised the consultants have analyzed the traffic, even with development on the east side of Buckner being some sort of commercial, office type use, the three lane configuration will suffice. The fourth lane really is as much of a parking issue as it for future

commercial use. How long will it take for all of the property on the east side to redevelop, he is guessing it will be decades. Some of those properties will remain residential for many years to come. The residential uses that exist there today as we have drafted up the new zoning district will be an allowable use in that district. Of course that is subject to planning commission and city council review as part of the normal zone change procedure. At this point in time we anticipate residential uses being an acceptable use in this district. He thinks if we are thinking that this lane is done just for commercial that is wrong because to him it's more of a parking issue than it is for providing an additional lane. Certainly someday as that whole area develops and we get more development north on Buckner towards Kohl's and the corner of 63<sup>rd</sup> and Buckner it may generate even more traffic than we anticipate at least we will have a lane in place that maybe can be used. He does not anticipate that parking lane being converted to a through lane for many many years.

MOTION: Warren moved to receive and file report. Craig seconded.

**Mayor Avello** gave the audience an opportunity to ask questions.

**Greg Sanders** stated that Mr. Brown had mentioned this evening that Buckner was a major arterial, in other discussions it has been described as a collector. He asked which it was and what is the difference?

**Mr. Brown** explained that a collector street is a street that is within a neighborhood that collects traffic and gets the local residential traffic out to an arterial street. For example, Kay Street, it goes through Tiara Pines and Oakwood Valley and carries traffic out to an arterial street. He thinks the designation he mentioned is what the comprehensive plan shows as a future use, he is not sure that is an existing classification but they are anticipating more traffic on Buckner as well and that may have been a future classification, not an existing one.

**Mr. Sanders** advised that Mr. Brown mentioned that he thinks the three lanes will carry the traffic and the fourth lane is for the future. As we go north to the 1300 and 1400 blocks of Buckner, can we limit the scope of that project to the four lanes that are mentioned? At that area it's not limited to that and it hasn't been mentioned much this evening and has an even more traumatic effect on the residents of those two blocks. If you feel as though it's 100% necessary to go four lanes can we limit it to four lanes and not have five lanes as is projected in the last two blocks and possibly open up the street side parking which those people won't have as has been made public.

**Mr. Brown** stated that what Mr. Sanders is referring to, at the intersection with Meadowlark, we would not have a true left turn lane at the intersection. He does not believe KDOT will approve such an intersection configuration. What we are trying to do at that intersection is to provide a typical intersection where the left turn lanes line up, everyone can see everyone else and in this particular scenario we are going to eliminate a left turn lane which is probably one of the key issues on that whole project.

**Mr. Sanders** stated that if it is necessary to have a five lane intersection to handle the traffic that three lanes will give it, is it really necessary to eliminate parking for two blocks coming to the

intersection. He understands there are approaches to an intersection but to completely eliminate parking on the east side from the 1300-1400 blocks; two full blocks because there is an intersection doesn't seem to make sense. He realizes that his parents are within five houses of the intersection and may be within the merging zone where parking couldn't be allowed but there is at least a block and a half that should. If you are going to do this in the 900-1300 blocks, can you at least allow those other people to utilize the parking that you are putting in.

**Mr. Brown** advised that is a good point. What Mr. Sanders is referring to is, at the present time (pointing out on a map), there is no parking allowed from Lincoln to Meadowlark. He and the city engineer discussed that this afternoon and they could not find any record in their files, maybe public works has some reason why there is that much no parking but the only reason they could come up with is perhaps it is because of the parking at Pleasantview Baptist Church that backs out onto Buckner. Having additional parking on the east side might cause some conflicts with that but he doesn't know. After this project is completed they anticipate that the no parking would probably only be restricted to the first 6-7 properties south of Meadowlark, they will have no extra room for parking. From that point on, south to Lincoln, there is no reason in their opinion why parking should be restricted on the east side.

**Council Member Craig** asked what the rationale was by KDOT of having a dedicated right hand turn lane going north to turn east on Meadowlark.

**Mr. Brown** advised there is no right hand turn lane in the new design.

**Council Member Craig** pointed out we are talking about five lanes.

**Mr. Brown** explained it would be two lanes north, two lanes south and one turn lane.

**Council Member Craig** pointed out there are two lanes coming from the south to merge to one lane, correct?

**Mr. Brown** advised that was correct. The north bound right lane will be for through traffic and a turning lane.

**Council Member Craig** advised he bets we have the same complaints we had on 63<sup>rd</sup> street about not being able to turn. How much distance do you really need to make that into five lanes?

**Mr. Brown** stated he did not know the answer to that. That is why we hire engineers to help us out. The five lane length going south to Meadowlark is probably based on a KDOT standard for cueing length and stacking.

**Council Member Craig** clarified there will be five lanes facing five lanes at the intersection.

**Mr. Brown** advised that would be correct.

**Mrs. Lombard** commented that if Buckner is going to be rezoned to R-1 from Lincoln northbound and we really don't think it will be used for commercial use for many years to come,

why not go with Mr. Meidinger's suggestion to go with the three lanes, allow the residents to maintain their property values, keep parking with their cars facing to the east. Mr. Brown said that is going to be a 10-foot wide parking lane that is about the same length of a car, those people are parked safely off the street. They will be put in danger getting in and out of their cars if they are parked on the street, it just seems odd to her. She thinks the question is, if it's going to be rezoned to R-1 but we really don't think it's going to be commercial, aren't we setting ourselves up to make it move that way? If we eliminate the trucks, what kind of additional traffic does Mr. Brown think will be coming down the street? As far as the corner itself, there is a little bit of a dog leg at the intersection and it's a simple project to fix. If we could make the lane changes and sign changes it would help get the traffic going and we wouldn't have to expand to five lanes.

**Ms. Sexton** stated there may have been a miscommunication regarding the zoning issue. In terms of the idea of zoning it commercial, she thinks what Mr. Brown was trying to say is just because you zone the property doesn't mean next year or tomorrow or anytime soon every property owner is going to put a business in their building or level a house and put a new building in there. What she thinks he was trying to refer to is, typically when you do a redevelopment of a residential area, some people might right away say they can make better rents if they rent this for commercial rather than residential. Realistically, a lot of people will keep living there as housing. The zoning happens at one point but there is nothing that is forcing everybody to change it to commercial right away. The change will happen over time, much like east Central in Wichita in the Edgemoor and Woodlawn areas. On the south side of Central there are homes that are similar to the homes on Buckner that have been changed into a dry cleaners or tailor shop or small retail business.

**Council Member Craig** advised it needs to be reemphasized that the zoning provides future options for property owners, not only to sell as a home but to offer the option of selling it as a commercial property. We are building in options to try to provide more latitude if and when you decide to sell the property.

**David Wilkus** advised a comment was made that the bike route was going to be moved to the west side. Does that mean there will also be a sidewalk on the east side?

**Mr. Brown** stated that the committee recommendation was a bike path on the west side of Buckner from James north and a 5-foot sidewalk along the rest of the Buckner route. There would be a 5-foot sidewalk on the entire east side.

**Mr. Wilkus** does not feel that is appropriate. You can walk on the bike route just as well as you can ride a bike on it. He pointed out the traffic counts, that is about the same time the issue at the bottom where Buckner and K-15 intersects that a light was put up. It is the traffic jam there, people can't get in and out to Taco Bell because of the traffic jam and they start going through the residential areas to find another exit. Putting more lanes dead ending at K-15 does not seem to increase the flow of traffic available to Buckner Street. It will be dead ended there based upon whatever lights are produced. You have tried to improve that corner and it didn't help and he thinks it is just going to get worse with any increased lanes that are provided.

**Council Member Meidinger** asked if we are going to rezone the west side of Buckner and Meadowlark from K-15. It would appear if you are going to do it on the east side then the homeowners on the west side are at a competitive disadvantage. It appears the whole thing should be commercial or not. He also thinks Meadowlark to K-15 should be commercial also.

**Mr. Brown** stated that the recommendation is to include the residential properties on the west side of Buckner. Basically all residential property on that corridor will be recommended for rezoning.

**Council Member Meidinger** asked about the northwest corner of Buckner and Meadowlark.

**Mr. Brown** advised that he believes any residential properties up to Overlook on the west side would be commercial. Nothing on the east side would be rezoned because all of that traffic goes out to the streets to the east.

**Council Member Meidinger** asked when that would be brought to the council.

**Mr. Brown** stated they have a draft of that, we are looking at other zoning type items such as screening and landscaping and lighting. We can provide a draft of the uses fairly quickly.

**Ms. Sexton** pointed out that that is going to go back to the committee. The whole concept is still in draft form and a lot of it is not even on paper yet. The next step will be going back to the committee and then to the council. She advised it would be a couple of months away, maybe after the first of the year even.

**Mr. Brown** added that once we have a consensus then we have to go to the planning commission following the normal legal process to change the zoning regulations and then it will come to the council.

**Council Member Meidinger** clarified that nothing is planned on Meadowlark.

**Mr. Brown** advised they had not talked about that but it may be something they need to look at as well.

VOTE: Motion carried 8-0.

The council recessed for 10 minutes at 8:25 p.m. and returned at 8:35 p.m.

## **2009 ROCK RIVER RAPIDS FEE SCHEDULE**

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

### **Background:**

- The City of Derby contracts with the DRC to provide management services for Rock River Rapids since it opened in the summer of 2004.
- As part of that agreement, the DRC tracks the costs associated with the facility and provides recommendations on the fee schedule for patrons of the park.
- In September, DRC and City staffs met to discuss issues related to Rock River Rapids including current operations, future facility changes and upgrades, programming opportunities, and fees.
- A zip code survey was conducted at the park from June 30 to July 6, 2008 to better understand our customers (see attached DRC report). From the 8,665 customers that week, we learned that –
  - 72% reside outside of Derby;
  - 8.7% were season-pass holders; and
  - 86% of season pass patrons were Derby residents.
- This information was used by staff to develop recommendations for 2009 fees.
- Recommended fees in question include --
  - gate ticket sales;
  - group rate fees;
  - season passes;
  - shelter rentals; and
  - facility rentals.
- Fees are set by the City Council and are considered annually in the fall to ensure that the DRC can offer season passes for sale as holiday gifts.
- After discussion with DRC staff and after considering the scheduled increase in the federal minimum wage from \$6.55 to \$7.25 on July 1, 2009, it appears that the current fee schedule would be inadequate to cover operational costs, especially for evening facility rentals for private parties.
  - Most evening rentals for private parties in 2008 were small events (fewer than 500 attendees) and were for the entire facility, requiring a full staff of life guards at all three pools. Under the recommended fee schedule, it is likely some rentals will change to only one or two pools, thus reducing staff costs and allowing multiple parties on the same evening.
  - Corroborating data regarding the impact of the minimum wage changes on the hourly wages for the DRC/RRR employees is attached.
  - Also attached are a 2008 facility rental customer list and a fee comparison of similar recreational venues.
- The current and recommended fee schedules are as follows:

Fee Type	Fee Schedule	
	Current Fee Structure	Recommended Fee Structure
Gate Ticket	0-2 yrs old - \$0	0-17 yrs old - \$7.00
	3 -17 yrs old \$5.50	18 & Over - \$8.00
	18 & Over - \$6.50	

Group Rates	0-2 yrs old - \$0	0-17 yrs old - \$6.00
	3 -17 yrs old \$4.50	18 & Over - \$7.00
	18 & Over - \$5.50	
Season Pass	\$60 per person	\$65 per person
	10% discount if purchased prior to opening day	Marketing Campaign Nov. 8 – Dec. 31, 2008: \$50 per person 10% discount if purchased between Jan. 1 – May 24, 2009
Shelter Rental	\$35 per hour	Monday – Thursday \$40 per hour Friday - Sunday \$50 per hour
Facility Rental	Entire Facility \$675 / \$150 deposit	Entire Facility \$1,200 +\$1 per person over 750 people
	Shallow Pool & Lazy River/Slides \$575 / \$150 deposit	Shallow Pool & Lazy River/Sides \$800
	Shallow Play Pool \$375 / \$150 deposit	Shallow Play Pool \$600
	Lap Pool \$275 / \$150 deposit	Lap Pool \$400
	Fee + \$150 deposit – After rental, deposit is returned or used to fund extra occupants in attendance.  Cancellation of rental costs 10% of the fee regardless of time frame.	No deposit required. If cancellation is made 10 days or more prior to the event, there is a 10% cancellation fee. If cancellation is made fewer than 10 days before the event, there is a 25% cancellation fee.

- For daily tickets, the rate schedule is recommended to change from three tiers, including free admission for toddlers aged 0 to 2, to two tiers, including treating toddlers the same as other children, because these small children actually require as much or more time and attention by lifeguards than the older children.
- Daily ticket prices are recommended to increase \$1.50, to \$7 (kids) and \$8 (adults). The recommended prices are still under the cost of an evening movie.
- At \$6 (kids) and \$7 (adults), recommended group rates would continue to be \$1 less than daily rates.
- These rates are commensurate with other area aquatic parks as well as entertainment options like the zoo or laser tag, and the quality of the Rock River Rapids facility is far superior to other aquatic centers.
- Season passes are recommended to increase only \$5, to \$65; this rate is recommended to continue to be discounted 10% (\$58.50) if purchased prior to opening day in May.
  - New this year is a recommendation for a further season pass discount to \$50 if purchased between November 8<sup>th</sup> and Dec. 31.

- Since most season-pass customers are Derby residents, this recommendation results in the park becoming even more accessible to Derby residents (\$50 vs. \$54 last year w/pre-season discount).
- A tiered rate system is recommended for shelter rentals for weekends and weekdays, which is commensurate with demand.
- Demand for evening rentals exceeded available dates in 2008, and customers continued to comment how inexpensive the facility is compared to other venues they use for private parties. This demand, coupled with the estimates of labor costs in 2009, justify the recommended increase in fees for after-hour rentals.
- The system used for deposits and event cancellations is recommended to streamline paperwork as well as to ensure we don't lose revenue by holding a night for a customer who then forfeits very little cash when they cancel and it's too late for us to re-book that night for another customer.

**Financial Considerations:**

- Pursuant to the Rock River Rapids Management Agreement, a full financial accounting of all revenue and expenses attributable to operation of the facility during the year will be provided to the City no later than Tuesday, November 11, 2008. Draft financial data is included in the agenda packet, and additional information will be provided at the October 28<sup>th</sup> Council meeting.

**Legal Considerations:**

- It is within the Council's authority to establish fees and charges for patrons of the Rock River Rapids aquatic park.

**Policy Considerations:**

- Recommended fees will not exceed those of similar recreational venues.

DISCUSSION:

**Council Member Warren** advised he has for years felt that in our effort to keep the water park affordable we made a commitment to the citizens of Derby that we would make it self sustaining. So far we have been very lucky and done very well to keep it in that balance but he feels like this is something that we need to do. There are a few things that he might suggest that we tweak a little bit here. One of them is the increase on children under two. There is an actual cost to providing a service for them so he thinks a fee is appropriate but to go from free to \$7.00 is an awful big jump. The reality is they probably cost us \$10.00 for everyone that comes in because of the watching out for little kids and the problems that kids that haven't learned how to control everything create in the pool. They probably cost us more than this but to try and find a middle ground, his recommendation is, and he has talked with the folks at the DRC, since they already have to differentiate between two years old and under this would not be a change for them, he recommends that we go to \$5.00 for children two and under and go with the recommendation on the ages 3-17 of \$7.00 and 18 and over at \$8.00. The other change he would suggest, we may want to get to \$1,200 for the entire facility rental but he recommends that we go to \$1,000 this year plus \$1.00 for everyone over 600. We have some groups that are right in that 500-600

range and his hope is that we would still be profitable at that number but he would like to see it go to \$1,000 for the entire facility with \$1.00 for over 600 and leave the other recommendations the same. He does not like the idea of dropping the deposit because if we have a cancellation, getting money from somebody once they've cancelled could create some issues. He suggests that we require a deposit of 20% of whatever it is they are renting. If they cancel 10 days or more prior they get half of that back, if they cancel less than that they forfeit the deposit at that point. It would make it much simpler to manage for the DRC so they don't have to go after somebody if they cancel at that point. He asked what we are going to do to promote the \$50.00 early bird situation between now and the end of the year. He would hate to have our citizens come back and say they didn't know about it. What are we going to do to make sure people know as soon as possible that they have that option?

**Ms. Sexton** advised there are some marketing plans the DRC folks have put together to market that opportunity. It is a Christmas gift buying type of thing so that is why we wanted to get that to you now.

**Council Member Bannon** asked about line 7220, professional fees, we have never had that until this year.

**Ms. Sexton** explained the professional fees are based on some concerns about liability issues and design of one of the slides and whether or not we needed to change some things. We paid for some legal research as well as a technical analysis by an expert in water park slides.

**Council Member Bannon** asked how much was in our reserve account, including interest.

**Mrs. Epperson** advised in the operation maintenance reserve provided by the election there is \$1.5 million. The interest goes into the interest sub-account that was created by a resolution several years ago. That balance is currently \$219,000.

**Council Member Bannon** also has some concerns about the cancellation fees, but assumes we are getting them to pay upfront, that way we will be able to keep the money. If we try to split up the pool, which she thinks is a smart thing to try and rent it out separately, how much cost do we have to try and cordon off those areas or is it designed so it's easy for us to do.

**Ms. Sexton** advised it is pretty easy to do that.

**Council Member Bannon** pointed out in party rentals versus guard costs, there is less than \$5,000 profit there and that doesn't include DRC's management fee, utilities, chemicals or any other expenses so she actually had some issues with raising the price to \$1,200 until the dollar was explained that was left off of the spread sheet. When you look at that she is okay with it. She is okay with raising the fees on the facility rental. As far as the season pass, it's a deal, buy it early. However, having been a mom of 0-2 year olds, if you have a kid over five years old that wants to go to the pool and you have a baby, that will be \$20.00, even if you go to Mr. Warren's \$5.00 fee. As a mom, I can make my kid happy and take them someplace they can play for \$20.00 or I can go to Mulvane where it's quite a bit cheaper and the kid will still be happy. In this economy, I'm not going to have \$20.00 to take two kids. With 0-2 year olds she understands

the control issue but that's something that we probably should have looked at and done a baby pool like they used to do in the old days anyway. She has a real problem with that, and, how much do you charge for a season pass for a 0-2 year old? Do you want to drop the price accordingly, or keep the price the same?

**Council Member Warren** pointed out that would be ten trips.

**Council Member Bannon** advised she is fine with the majority of this. In looking at the dollar figures, once you've straightened out the facility dollar per person. This pool was never meant to be a money maker, nor has it been meant to be a money loser. When you look at the after hours rentals that is currently in the loser column. She does have an issue with the price for the 0-2 year olds.

**Council Member Horyna** advised he also has concerns about the charge for 0-2 year olds; he has children in that age range right now. He understands the concern of being around water with children. If we are going to charge admission for children 0-2 that still doesn't take away the accident potential. Will there be any hiring of additional personnel to help watch over these children?

**Ms. Sexton** stated she thinks the pools are currently staffed with adequate life guards to manage the populations in the pools. The idea is just simply to spread the cost to the patrons in a fair way.

**Council Member Staats** also has a problem charging the 0-2 year olds. If you have a 1-year old you're probably not going to go the water park with just your 1-year old. When you have to take your 5 or 6-year old and you might have a 6-month old in tow who is not going to even get out of the stroller or carrier. As a parent he thinks it would make him angry if he wanted to take his older child to the aquatic park and had to pay \$5.00 just to carry a carrier in. A lot of places don't charge for children that age, he understands that a 1-year old could access the pool and maybe cause some issues. Maybe there is a way to charge them if they are going to use the pool, if they are going to sit in a stroller or carrier the whole time then they don't get charged. He doesn't know what kind of problems that will cause for the staff though. He understands Mr. Warren's concern as far as some control issues but like Cheryl said, if we charge the \$5.00 those issues are still there. He thinks we are going to make more people mad than we are going to generate any extra revenue.

**Council Member Arnold** commented that in looking at the figures he doesn't really see anything that jumps out to him that is obnoxious. A pool is a system that generates an awful lot of usage like ours did over the last couple of years, but at the same time in order to maintain the pool and equipment properly is very expensive. The cost of the chemicals, which is a petrol chemical derivative from oil, is going up 25% next year. As Ms. Sexton mentioned electricity is going up 11%, wages are going up with workers comp going up along with it. In order to be competitive it is really necessary for us to protect our interests and those rates should be increased. This system is not going to become cheaper to operate; it's going to become more expensive. It was never built to be a money maker but at the same time we don't want it to be a money loser either. He doesn't want to see the tax payers of Derby get burdened with an

albatross. Anything we can do to keep it solvent, even if we have to raise the rates, at the same time it will guarantee the future use of this equipment for the next generation to come. Maintenance in this operation every three years, if a boiler goes out, that's expensive. The price of the chemicals and cost of utilities are not going to go down. We started off offering these services at a rate that to him was ridiculous. It costs you \$9.00 to go to a movie and you're only there for two hours. You can go to the pool for \$8.00 and spend the entire day there. Relative to that, all the requests that are being made, he feels this is fair and equitable. At the same time, never lose sight of the fact that one of the biggest liabilities we have in this city is the pool itself.

**Council Member Warren** asked what we are doing about the deposit/cancellation fee.

**Ms. Sexton** explained that the whole fee is collected up front when you make a reservation. The purpose of the deposit is not really to make sure people pay the fee, it's pretty much just in case there is any vandalism or anything broken.

**Council Member Warren** clarified that if someone were to come in and rent the entire facility, they would pay the entire fee up front, the deposit was for vandalism or other issues, he can live without the deposit then. He was just trying to figure out how we would get the money from somebody but if we have the money up front it's not an issue. We currently are charging for grandparents, if somebody comes in and they are not going to get in the pool we still charge for them. The argument that resonates with him a little bit is if you have a 6-month old and they are not getting in the pool he has a hard time charging for that person. What he would look at is that if you have a child under 2-years old that is not going to get in the water then we don't charge a fee. If they are getting in the water then they can pay \$5.00. His argument is, if they lie to us then we have lost \$5.00, if they say they are not going to get in the pool and then they get in the pool, we lost. We will take them at their word; otherwise we are going to charge them because there is a cost associated with it. He thinks we have ways we can come up with scholarships but people need to pay their fair share.

**MOTION:** Warren moved to accept the recommendations presented by staff with the following exceptions: the fee for 0-2 year-olds be dropped to \$5.00 and the rental for the full facility be dropped from \$1,200 to \$1,000 plus \$1.00 for everyone over 600 people. Horyna seconded.

**AMENDMENT TO THE MOTION:**  
Bannon moved to amend the motion to leave the facility rental at \$1,200, change the 0-2 year-old price to \$3.00 with a \$30 season pass for that age range. Craig seconded.

**Council Member Craig** agreed with the rate changes except for one. He is disappointed that we think we need to charge for 0-2 year-olds. He knows that's not going to set well with some folks. Economically we will not know where we are until next year, this is a city amenity. Young people use the pool quite a bit and he can't see penalizing them just because they have a baby. It needs to be cut and dry and he supports Mrs. Bannon's motion only because we need to move this forward. If it doesn't pass he can't vote for Mr. Warren's \$5.00. He believes those aged 0-2 should be free but agrees with the other prices.

**Ms. Sexton** advised that whatever the council comes up with they can do but there is some concern with the idea of a different price for a season pass. That could cause some issues in terms of enforcement. Are we going to start carding the children, how will we know what their real age is for sure? We don't want to make administration of the fee schedule more difficult and that would be a concern.

**Council Member Nun** asked if there were any idea of how many 0-2-year olds actually come to the pool.

**DRC staff member** advised it was 2,000+ over the season.

**Ms. Sexton** clarified that we have 8,600 in one week total for the whole pool so to have 2,000 0-2 year-olds for the whole season is a pretty small percentage.

**Council Member Warren** indicated he would be willing to accept Mrs. Bannon's compromise if she could withdraw the season pass aspect. He can live with \$3.00.

#### **AMENDMENT WITHDRAWN**

**Council Member Bannon** withdrew her amendment. Council Member Craig withdrew his second.

**Council Member Craig** indicated somewhere in their governing body manual they have the ability to poll the council; he would like to know how many on the council would support free admission for 0-2 year olds.

**Mr. Alexander** indicated there could be an informal survey of the council members.

#### AMENDMENT TO THE MOTION:

Bannon moved to amend the motion to allow 0-2 year-olds to get in free and the entire facility rental price stay at \$1,200 and to charge \$1.00 for each person over 750. Craig seconded.

**Ms. Sexton** clarified that the original motion was \$1.00 over 600 people.

**Council Member Bannon** clarified that her motion was to stay with the recommendation; Council Member Warren's was to change it.

VOTE ON AMENDMENT: Motion carried 5-3, Warren nay, Horyna nay, Nun nay

VOTE ON ORIGINAL MOTION: Motion carried 5-3, Warren nay, Horyna nay, Nun nay

#### **RESOLUTIONS FOR PUBLIC IMPROVEMENTS TO SERVE STONE CREEK COMMERCIAL**

## 4<sup>TH</sup> ADDITION

Charlie Brown, Director of Community Development presented the staff report.

### Background:

- Stone Creek Commercial 4<sup>th</sup> Addition is located on the southwesterly side of Buckner, north of Lowe's and Kohl's.
- The Final Plat of Stone Creek Commercial 4<sup>th</sup> Addition was approved by the Council on September 23, 2008. This plat is a replat of a portion of the original Stone Creek Commercial 3<sup>rd</sup> Additions and consists of 3 B-5 lots that total 21 acres in size.
- Along with the Final Plat, the Council also approved the petitions submitted by the developer for sanitary sewers, water lines, streets, sidewalks and drainage.
- The plat has now been recorded and Gilmore & Bell, the City's bond counsel, have now prepared the corresponding resolutions for Council consideration.

### Financial Considerations:

- Most of the infrastructure projects for this area have previously been approved by the City Council along with the previous plats. The subject resolutions simply revise the benefit districts to include the new platted lots within Stone Creek Commercial 4<sup>th</sup> Addition. One new storm sewer project is included to replace the previously approved drainage channel.
- The infrastructure resolutions total \$1,475,000 of which \$100,675 will be paid by City-at-Large in accordance with the City's Public Improvement Finance policy for oversizing sanitary sewers and arterial sidewalks.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

### Legal Considerations:

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

### Policy Considerations:

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

RESOLUTION NO. 48-2008  
SANITARY SEWER IMPROVEMENTS/STONE CREEK COMMERCIAL 4<sup>TH</sup>  
ADDITION.

RESOLUTION NO. 49-2008  
WATER LINE IMPROVEMENTS/STONE CREEK COMMERCIAL 4<sup>TH</sup> ADDITION.

RESOLUTION NO. 50-2008  
STREET IMPROVEMENTS-COMMERCE DRIVE; SIDEWALK & INTERSECTION  
IMPROVEMENTS-BUCKNER & COMMERCE DRIVE/STONE CREEK  
COMMERCIAL 4<sup>TH</sup> ADDITION.

RESOLUTION NO. 51-2008  
STREET IMPROVEMENTS; CONTINUOUS ACCEL-DECEL LANE IN BUCKNER  
& SIDEWALK IMPROVEMENTS/STONE CREEK COMMERCIAL 4<sup>TH</sup> ADDITION.

RESOLUTION NO. 52-2008  
STORM WATER SEWER IMPROVEMENTS/STONE CREEK COMMERCIAL 3<sup>RD</sup> &  
4<sup>TH</sup> ADDITIONS.

RESOLUTION NO. 53-2008  
STREET & SIDEWALK IMPROVEMENTS-STONE CREEK COMMERCIAL  
ADDITION & CONTINUOUS ACCEL-DECEL LANE IN BUCKNER.

RESOLUTION NO. 54-2008  
WATER LINE IMPROVEMENTS-PHASE 2/STONE CREEK COMMERCIAL 3<sup>RD</sup>  
ADDITION.

RESOLUTION NO. 55-2008  
SANITARY SEWER IMPROVEMENTS-PHASE 3/STONE CREEK COMMERCIAL  
3<sup>RD</sup> ADDITION.

RESOLUTION NO. 56-2008  
WATER LINE IMPROVEMENTS-PHASE 3/STONE CREEK COMMERCIAL 3<sup>RD</sup>  
ADDITION.

MOTION: Warren moved to approve resolutions for public improvements to serve  
Stone Creek Commercial 4<sup>th</sup> Addition. Bannon seconded.

VOTE: Motion carried 8-0.

**RESOLUTIONS FOR PUBLIC  
IMPROVEMENTS TO SERVE  
DERBY CORPORATE PARK  
ADDITION**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- Derby Corporate Park Addition is located at the southeast corner of 55<sup>th</sup> Street and Buckner/Oliver.
- The Final Plat of this addition was approved by the Council on September 23, 2008.
- The plat consists of 40 B-5 lots, totaling approximately 285 acres.
- Along with the Final Plat, the Council also approved the petitions submitted by the developer for sanitary sewers, water lines, streets, sidewalks and drainage.
- The plat has now been recorded and Gilmore & Bell, the City's bond counsel, have now prepared the corresponding resolutions for Council consideration.

**Financial Considerations:**

- The benefit district defined in the resolutions includes only those lots within Derby Corporate Park Addition.
- The infrastructure resolutions total \$5,473,000.
- The City has agreed by contract to construct certain water main and sanitary sewer improvements totaling \$694,000 in exchange for ownership of Lot 9, Block B, which is the location of the future Public Works Facility. That leaves \$4,779,000 in projects to be funded per the City's typical special assessment process. Of that amount, the City-at-Large would pay \$356,419 for oversizing water lines, sewer lines, and arterial sidewalks.

In addition, as a land owner within the defined benefit district, the city will pay \$482,677 for internal street, water, drainage and sidewalk projects.

- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

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

**Policy Considerations:**

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

RESOLUTION NO. 57-2008  
SANITARY SEWER IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 58-2008  
SANITARY SEWER IMPROVEMENTS/DERBY CORPORATE PARK-LOT 9;  
BLOCK B.

RESOLUTION NO. 59-2008  
WATER MAIN IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 60-2008  
WATER MAIN IMPROVEMENTS/DERBY CORPORATE PARK AND STONE  
CREEK COMMERCIAL ADDITION.

RESOLUTION NO. 61-2008  
WATER MAIN IMPROVEMENTS/DERBY CORPORATE PARK-LOT 15, BLOCK C.

RESOLUTION NO. 62-2008  
WATER MAIN IMPROVEMENTS/DERBY CORPORATE PARK-LOT 9; BLOCK B.

RESOLUTION NO. 63-2008  
STREET IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 64-2008  
ACCEL/DECEL LANE IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 65-2008  
STORM WATER SEWER IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 66-2008  
STORM WATER DRAIN IMPROVEMENTS/DERBY CORPORATE PARK.

RESOLUTION NO. 67-2008  
SIDEWALK IMPROVEMENTS/DERBY CORPORATE PARK.

MOTION: Arnold moved to approve resolutions for public improvements to serve Derby Corporate Park Addition. Warren seconded.  
VOTE: Motion carried 8-0.

**RESOLUTIONS FOR PUBLIC IMPROVEMENTS TO SERVE DERBY MEDICAL CAMPUS ADDITION**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- Derby Medical Campus Addition is located on the north side of Madison, just east of Derby High School
- The Final Plat of this addition was approved by the Council on October 14, 2008.
- The plat consists of 3 I-1 lots and 2 B-2 lots, totaling approximately 14 acres.
- Along with the Final Plat, the Council also approved the petitions submitted by the developer for sanitary sewers, water lines, streets, drainage and sidewalks.
- The plat has now been recorded and Gilmore & Bell, the City's bond counsel, have now prepared the corresponding resolutions for Council consideration.

**Financial Considerations:**

- The benefit district defined in the resolutions includes only those lots within Derby Medical Campus Addition.
- The infrastructure resolutions total \$784,000, all of which will be paid by the benefit district. There are no City-At-Large contributions.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

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

**Policy Considerations:**

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

RESOLUTION NO. 68-2008  
SANITARY SEWER IMPROVEMENTS/DERBY MEDICAL CAMPUS ADDITION.

RESOLUTION NO. 69-2008  
WATER LINE IMPROVEMENTS/DERBY MEDICAL CAMPUS ADDITION.

RESOLUTION NO. 70-2008  
STREET IMPROVEMENTS/DERBY MEDICAL CAMPUS ADDITION.

RESOLUTION NO. 71-2008  
STORM WATER SEWER IMPROVEMENTS/DERBY MEDICAL CAMPUS ADDITION.

RESOLUTION NO. 72-2008  
SIDEWALK IMPROVEMENTS/DERBY MEDICAL CAMPUS ADDITION.

MOTION: Bannon moved to approve resolutions for public improvements to serve Derby Medical Campus Addition. Horyna seconded.

VOTE: Motion carried 8-0.

**RESOLUTIONS FOR PUBLIC  
IMPROVEMENTS TO SERVE  
THE OAKS ADDITION,  
PHASE 11A**

**Charlie Brown**, Director of Community Development presented the staff report.

**Background:**

- The Oaks Addition is located between Patriot and Meadowlark, on the west side of Rock Road.
- The Final Plat of The Oaks Addition was approved by the Council on January 25, 2001.
- Along with the Final Plat, the Council also approved the petitions submitted by the developer for sanitary sewers, water lines, streets, sidewalks and drainage.
- Subsequent to the approval of the original resolutions, the Council approved splitting the original Phase 11 into 2 parts to better accommodate the construction of the new hotel.
- Bids were recently opened for Phase 11A streets and sidewalks which resulted in project costs exceeding the resolution amounts.
- The owners of all land in the benefit district (Lusk Communities, Lindsey Management and hotel developer Raju Sheth) have submitted revised petitions to cover the revised costs for both the streets and the sidewalks.
- Gilmore & Bell, the City's bond counsel, has prepared the corresponding resolutions for Council consideration.

**Financial Considerations:**

- The infrastructure resolutions total \$915,000, all of which will be paid by the benefit district. There is no City-at-Large contribution.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

**Legal Considerations:**

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

**Policy Considerations:**

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

RESOLUTION NO. 73-2008  
A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 25-2008 OF THE CITY OF DERBY, KANSAS WHICH DETERMINED THE ADVISABILITY OF THE MAKING OF A CERTAIN INTERNAL IMPROVEMENT IN THE CITY OF DERBY, KANSAS (SIDEWALK IMPROVEMENTS-PHASE XIA/THE OAKS ADDITION.

RESOLUTION NO. 74-2008

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 24-2008 OF THE CITY OF DERBY, KANSAS WHICH DETERMINED THE ADVISABILITY OF THE MAKING OF A CERTAIN INTERNAL IMPROVEMENT IN THE CITY OF DERBY, KANSAS (STREET IMPROVEMENTS-PHASE XIA/THE OAKS ADDITION).

MOTION: Craig moved to approve resolutions for street and sidewalk improvements to serve The Oaks Addition, Phase 11A. Arnold seconded.

VOTE: Motion carried 8-0.

**BIDS FOR CURED IN PLACE PIPING (CIPP)**

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

**Background:**

- Each year the Wastewater Department identifies sections of existing sanitary sewer lines for rehabilitation. These lines are rehabilitated utilizing a process called Cured in Place Piping (CIPP).
- Requests for quotations were submitted to contractors, and the following bids were received:

Utility Maintenance Contractors	\$98,888.00
Insituform Technologies	\$118,665.00

**Financial Considerations:**

- The 2008 Wastewater Budget includes funding for this project.

**Legal Considerations:**

- The City has followed all statutory procedures in planning the project and soliciting bids for the project.

**Policy Considerations:**

- Wastewater staff does not have the equipment or expertise to complete this work.
- The Bid Board recommended approval of the low bid from Utility Maintenance Contractors.
- Utility Maintenance Contractors has completed several projects in Derby and has submitted all required bonds and financial sureties for the project.
- Upon approval of the bid, staff will prepare the required contract documents for the City Manager and City Clerk.

DISCUSSION:

**Council Member Horyna** asked where the CIP piping will be installed.

**Mr. Newberry** advised that most of the work is located in the older part of the city. This work is all in the area west of Woodlawn, south of Meadowlark.

**Council Member Horyna** asked if residents will be notified.

**Mr. Newberry** indicated they would notify the residents that the work is being done.

**Mr. Brown** explained that as this process is done they do fairly short sections at a time so they will advise the homeowners. The homeowners will experience very little interruption in service as the pipe lining is put in place. Their service lines are covered up until that material hardens and then you go back in and cut it out with a saw. They are notified so they can keep the use of the sanitary sewer system to a minimum while we are working in that area.

**Council Member Horyna** asked how many feet are being done.

**Mr. Newberry** advised it would be about 4,500 feet.

**Council Member Warren** advised about a week or so ago he saw something like this on the Discovery Channel. Is this kind of an epoxy?

**Mr. Newberry** explained that the material they pull through the lines is kind of a felt type material but it is impregnated with an epoxy material that sets up when it's heated. They pump hot water in there that expands the pipe and sets in place.

**Council Member Warren** asked if Utility Maintenance Contractors have a lot of experience in this particular process.

**Mr. Brown** replied yes.

MOTION: Warren moved to approve the bid of Utility Maintenance Contractors for \$98,888 for rehabilitation of sanitary sewer lines. Horyna seconded.

VOTE: Motion carried 8-0.

#### **DELEGATION OF LIMITED AUTHORITY TO CITY MANAGER**

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

#### **Background:**

- The current Memorandum of Agreement (“MOA”) between the City of Derby and Fraternal Order of Police Lodge #16 was approved by the bargaining unit membership on June 18, 2007, and by the City Council on June 26, 2007.
- The MOA provides for terms and conditions of employment, including, pay, benefits, and working conditions.
- The MOA currently provides for accrual of a maximum of 40 hours of holiday leave; excess holiday hours not used within 60 days of being earned will be lost.
- Since police officers must often work on holidays, are subject to call, and are routinely required to make court appearances that fall on days that they were not originally scheduled to work, it has been difficult for officers to use down their balances.
- To date, no bargaining unit member has lost time, because a provision exists that allows holiday time to be paid out with supervisor approval if work constraints prohibited use of

the holiday leave. However, tracking the time has been an administrative challenge for both bargaining unit members and City staff.

- City staff and bargaining unit representatives have tentatively agreed to modify MOA holiday leave provisions to address this problem.
- The proposed amendment is consistent with the City's Personnel Policy Manual, which provides for leave over 40 hours to be paid out on the next payroll check.
- Currently all amendments to the MOA require Council approval. From time to time there may be minor or technical changes that the City Manager and the FOP bargaining unit may want to make.
- Authorizing the City Manager to make these types of changes would eliminate the need to bring such changes to the Council for formal action.

**Financial Considerations:**

- Implementation of the proposed amendment will have little or no financial effect because to date, all holiday leave subject to forfeiture has been paid out rather than lost.

**Legal Considerations:**

- The MOA is a contract between the City and its Police Department bargaining unit.
- The bargaining unit includes all police officers and master police officers.
- The MOA has been in effect for approximately 16 months, during which the parties have identified the need for amendment of the procedure provided for use of holiday leave.
- Because similar minor amendments may be needed in the future, staff also recommends that the City Manager be authorized to negotiate and approve such amendments.

**Policy Considerations:**

- Paying out holiday leave for bargaining unit members who are unable to take time off is consistent with City policy applicable to other City employees.

DISCUSSION:

**Council Member Craig** asked about the payout in the next paycheck, is this a system that is taken care of computer wise or is it manual that it has to be tracked.

**Mr. Alexander** advised that one of the reasons we thought this was an appropriate change from the city standpoint is it becomes manual to have to keep track of holiday leave that hasn't been used and is in danger of being lost. No other city employees have that problem so that then creates a manual tracking problem.

**Mrs. Epperson** stated that Mr. Alexander is correct. Right now they have to keep an Excel spreadsheet tracking this.

**Council Member Craig** clarified that the computer program will take care of tracking.

**Mrs. Epperson** advised that was correct.

MOTION: Staats moved to adopt the amendment to the MOA between the City of Derby and Police Department bargaining unit as presented, and authorize the City Manager to negotiate and approve amendments to the MOA when the City Manager determines that such amendments are minor and that any cost associated with the amendment is within the City Manager's purchasing authority. Bannon seconded.

**Council Member Warren** asked Ms. Sexton if she will notify the council on any decisions she makes regarding the MOA. How will they be notified?

**Ms. Sexton** advised she could notify the council right away if they prefer. It's a two-year contract and when it is brought back before the council for review they could review any technical amendments that have been made since the council last saw it.

**Council Member Warren** would prefer to be made aware if there are adjustments made so if someone came up and asked him about it he doesn't have egg on his face.

**Mayor Avello** asked if he had a timeframe in mind.

**Council Member Warren** indicated he would like 2 weeks to 30 days, within a council meeting or two. Thirty days seemed appropriate.

VOTE: Motion carried 8-0.

## CONSENT AGENDA

### Contract for Street, Stormwater Sewer and Sidewalk improvements to serve The Oaks Addition, Phase 11A

#### Background:

- A bid opening for construction of Street, Stormwater Sewer and Sidewalk improvements to serve The Oaks Addition, Phase 11A was conducted on Tuesday, September 30, 2008.
- Bids were submitted by contractors after advertisement in the appropriate publications. The following bids were received by the City Engineer's office and witnessed by the City Clerk:

APAC-Kansas, Inc.	\$728,545.56
Lafarge North America	\$706,284.00
Kansas Paving	\$680,542.20
Cornejo & Sons, Inc.	\$657,414.05
<b>Engineer's Estimate*</b>	<b>\$479,545.56</b>

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

#### Financial Considerations:

- Funds for construction were included in the 2008-1 temporary note issue.
- The difference between the engineer's estimate and the bids appears to result from underestimation of the cost of asphalt pavement.
- The low bid would result in project costs in excess of the amount authorized by the original resolution, so the developers have submitted revised petitions. A revised resolution was approved by the Council earlier in this meeting.
- Costs will be assessed 100% to the benefit district and none to the City-at-large. Special assessments will be spread against the benefit district properties over 15 years.

#### Legal Considerations:

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

**Policy Considerations:**

- Cornejo & Sons, Inc. has completed several projects in Derby. Cornejo & Sons, Inc. 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 Cornejo & Sons, Inc. for \$657,414.05 and authorize the City Manager to execute a contract for construction of Street, Stormwater Sewer, and Sidewalk Improvements to serve The Oaks Addition, Phase 11A.

**Vehicle Replacement Bids**

**Background:**

- The 2008 Vehicle Replacement Plan provides for the replacement of three pick up trucks and three staff cars.
- Two light trucks are to be used in the Wastewater Department and Code Enforcement and a 1/2 ton 4-wheel drive truck is to be used in the Community Development Department in the inspection of infrastructure projects which involve driving in off-road areas. The staff cars are to be used in the Police Department.

**The Trucks:**

- Bid specifications were mailed to thirteen vendors in the region, three bids were received.

<u>Company</u>	<u>Light Truck*</u>	<u>1/2 Ton Truck</u>
Pfaff Chevrolet	<b>\$15218 Chevy Colorado</b>	\$25,507 Chevy Silverado
Rusty Eck	\$15,568 Ford Ranger	<b>\$23,828 Ford F150 XL</b>
Davis Moore	\$19,632 Dodge Dakota	\$25,222 Dodge Ram 1500

\*Prices are per truck but order will be for two light trucks

**The Staff Cars:**

- Bid specifications were mailed to seven vendors, all submitted bids. GSA is the Kansas Highway Patrol Partners Program, which is an effort of the state to extend its pricing to local governments

<u>Company</u>	<u>Bid*</u>
Rusty Eck Ford	\$55,498 Ford Taurus SE
Steven Ford-Mercury	\$57,195 Ford Taurus Sel
Steven Chrysler	\$54,918 Dodge Avenger SE
Pfaff Chevrolet	\$59,177 Chevrolet Impala LS
Lubbers Ford	\$57,620 Ford Taurus Sel
Olathe Ford	\$63,900 Ford Taurus Sel
<b>GSA</b>	<b>\$46,056 Chevrolet Impala LS</b>

\*Prices are total price for three cars.

**Financial Considerations:**

- The combined budget for all three trucks is \$50,000 which is less than the total purchase price of \$54,264 but funds are available from savings of other equipment purchases this year.
- The budget for the staff cars is \$55,500 which exceeds the purchase price of \$46,056.
- The following vehicles are scheduled for disposition when the replacement vehicles arrive. Staff is planning to auction the following vehicles on the internet once they are declared surplus by the City Council:
  - 1989 Ford 150
  - 1987 Ford 150
  - 1988 Ford 150

- 1998 Ford Taurus
- 1994 Pontiac Bonneville
- 1995 Ford Crown Vic

**Legal Considerations:**

- All applicable procurement procedures for solicitation and analysis of bids were observed.

**Policy Considerations:**

- All bid and purchase guidelines as required by the City of Derby Purchasing Policy have been followed.

**Recommendation:**

- Approve the bid from Rusty Eck in the amount of \$23,828 for a ½ ton Ford Truck, from Pfaff Chevrolet in the amount of \$30,436 for two Chevrolet Colorado trucks, and from the GSA/Kansas Highway Patrol Partners Program in the amount of \$46,056 for the purchase of three Chevrolet Impala staff cars and declare the vehicles identified for disposition as surplus.

**Scheduling of Special City Council Meeting**

**Background:**

- Due to the Veterans Day holiday, action was taken by the governing body on June 24 to cancel the November 11<sup>th</sup> regular City Council meeting.
- The sale of Series 2008-B G.O. Bonds is scheduled for the morning of November 13<sup>th</sup> and will require governing body acceptance of the bids and approval of the sale, imminently.
- It is recommended to hold a Special City Council meeting at noon on November 13<sup>th</sup> to act on the financing documents, as well as other time-sensitive items due to the cancellation of the November 11<sup>th</sup> meeting.

**Policy Considerations:**

- Business conducted during a special meeting is limited to the stated purpose of the meeting.
- A quorum of the council is required to hold the special meeting.

**Recommendation:**

- Approve the call for a Special City Council meeting on November 13, 2008 at 12 noon for the purpose of consideration of:
  - Financing documents related to sale of bonds/temporary notes.
  - Presentation of the 2007 Audit and Financial Statements.
  - Bids for infrastructure maintenance and improvement projects.
  - Proposal for the employee health and dental insurance program for 2009.

**Bids for Sanitary Sewer Manhole Rehabilitation**

**Background:**

- The Wastewater Division each year identifies deteriorating sanitary sewer manholes for rehabilitation. These manholes are rehabilitated using a spray-applied grout to seal and add structural integrity to the manhole.
- Wastewater staff has identified 100 vertical feet of manhole (10 manholes) in need of rehabilitation.
- Requests for bids were submitted to contractors, and the following bids were received:
 

Mayer Specialty Services	\$11,500
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Utility Maintenance Contractors \$13,570

**Financial Considerations:**

- Funds for this work are included in the 2008 Wastewater Budget.

**Policy Considerations:**

- Wastewater staff does not have the equipment or expertise to complete this work.
- The Bid Board recommended approval of the bid of Utility Maintenance Contractors.

**Recommendation:**

- Approve the bid of Mayer Specialty Services for \$11,500 for rehabilitation of manholes.

**Initiation of Codification Process**

**Background:**

- State law authorizes publication of ordinances of general application as a municipal code.
- Derby updates its City code periodically, and the last codification was November 2007.
- It is necessary to update the City Code to include ordinances passed since that time.
- Staff proposes to use the services of Lexis-Nexis of Charlottesville, VA, the City's current code publisher.

**Financial Considerations:**

- Recodification costs, which are based on the number of pages to be added or amended, are estimated to be approximately \$4,500.
- Improved utility of the new code results in time saved for both City staff and the public.

**Legal Considerations:**

- The City's code should be kept current to provide easy access to all ordinances.
- Adoption of an updated City Code must comply with K.S.A. 12-3014 and 3015.
- Upon completion of the supplement, the Council will re-adopt the entire City Code, as supplemented.

**Policy Considerations:**

- The new city code will be easier to use for both staff and the public.

**Recommendation:**

- Adopt an ordinance authorizing and directing the supplementation and recodification of the Derby Municipal Code.

ORDINANCE NO. 1958

AN ORDINANCE AUTHORIZING AND DIRECTING THE SUPPLEMENTATION AND RECODIFICATION OF THE DERBY MUNICIPAL CODE.

**CDBG Grant Resolutions:**

**Background:**

- After a request by residents in the 400 and 500 blocks of South Westview to install sidewalks, the City has agreed to submit a grant request for a Community Development Block Grant (CDBG) to gain funding for the project.
- The sidewalk project would benefit 36 properties along Westview from Kay Street to English Street, just north of Swaney Elementary.

**Financial Considerations:**

- The estimated cost of the project is \$56,325.35. This amount includes:
  - Construction \$ 44,425.00
  - Design 4,886.75
  - Inspection 1,777.00
  - City Administration 2,554.44
  - Grant Administration 2,682.16
- The CDBG Grant program requires a minimum 25% match. That amount, based on the estimated project costs, would be \$14,081.34. Not including interest, the cost per homeowner would be \$391.15.
- If the grant is awarded, the matching portion will be paid by the homeowners via special assessments.

**Legal Considerations:**

- The accompanying resolutions are necessary to prove the city’s eligibility to apply for the CDBG funds and to confirm that funds are in place to operate and maintain the improvements in the future. The sidewalks will not require ongoing maintenance by the City, so no funds are budgeted for operations and maintenance. In most cases, property owners will be responsible for repairs if necessary.
- The City Attorney has reviewed both resolutions.

**Policy Considerations:**

- The City has previously obtained CDBG Grant funds and is familiar with the procedures and processes required for recordkeeping and auditing of the project funds.

RESOLUTION NO. 74-2008

A RESOLUTION CERTIFYING LEGAL AUTHORITY TO APPLY FOR THE 2009 KANSAS SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FROM THE KANSAS DEPARTMENT OF COMMERCE AND AUTHORIZING THE MAYOR TO SIGN AND SUBMIT SUCH AN APPLICATION.

RESOLUTION NO. 75-2008

A RESOLUTION ASSURING THE KANSAS DEPARTMENT OF COMMERCE THAT FUNDS WILL BE CONTINUALLY PROVIDED FOR THE OPERATION AND MAINTENANCE OF IMPROVEMENTS TO THE DERBY SYSTEM TO BE FINANCED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

**Ordinance Vacating Platted Alley in Odd Fellows Addition:**

**Background:**

- The Odd Fellows Addition is an addition to the town of El Paso (now Derby) and was recorded on October 29, 1883. This addition is located between Baltimore (K-15) and Georgie and between Market and Main.
- The plat established a 20’ wide alley from Main Street southward to a point 75’ north of Market.
- All of the lots abutting this alley are zoned B-4 Central Shopping and are developed for storage units, car sales, a car wash, and service businesses.
- The Planning Commission held a required public hearing on this request on September 18, 2008. Notice of the hearing was mailed to all affected property owners and to the utility companies on September 5, 2008.

- Upon adoption of this ordinance, the 20-foot alley will be vacated.
- Ownership of the alley will revert to the property owners on both sides, subject to retention of an easement for public utilities.

**Legal Considerations:**

- All procedures prescribed in the City’s subdivision regulations for vacation of the alley have been followed.
- If a protest against this ordinance is filed within 30 days of publication, then the Council will hold a hearing on the matter. After the required hearing, the Council may either confirm the vacation by resolution or void it by taking no action.
- The County Clerk and Register of Deeds will be notified of the vacation so that it can be entered on land transfer records.

**Policy Considerations:**

- Similar requests in the past have been approved by the City Council when found to be in the public interest.
- Approval of this ordinance will be subject to retention of a utility easement necessary to allow for use and maintenance of public utilities.
- The City has a sanitary sewer main line located in this alleyway. Westar Energy, AT&T, and Cox Communications also have equipment in the alley.

**Recommendation:**

- Adopt an ordinance vacating the alley located adjacent to Lots 1 through 18 in the Odd Fellows Addition to the City of Derby, subject to retention of a utility easement across the same property, and authorize staff to certify the ordinance to the Sedgwick County Clerk and Register of Deeds.

ORDINANCE NO. 1959

AN ORDINANCE ADOPTED PURSUANT TO SECTION 1003.C OF THE SUBDIVISION REGULATIONS OF THE CITY OF DERBY, KANSAS, VACATING A PLATTED ALLEY LOCATED WITHIN THE CITY.

**Assessment Ordinance – Mowing, Trash Removal**

**Background:**

- The City of Derby has incurred costs in abating nuisances found to exist upon certain properties located within the City.
- The costs are the charges the City incurred in the contracting with vendors for the mowing and trash removal service, plus a \$50 administrative fee.
- Each owner of record has been sent notification that Council will consider assessment by ordinance of the charges.

**Financial Considerations:**

- The costs incurred in connection with the parcels to be assessed total \$3,410.66.

**Legal Considerations:**

- City ordinance authorizes staff to mow properties with excessively tall vegetation and remove trash when owners fail to do so.
- City staff seeks to collect mowing charges through informal efforts so as to avoid the need for formal remedies.
- Charges not timely paid may be assessed against the properties on which the work was performed.

**Policy Considerations:**

- City ordinance has established the policy that requires maintenance of grass and weeds to not exceed the height of ten inches to protect the health and safety of citizens.

**Recommendation:**

- Adopt an Ordinance levying a special assessment upon certain properties the costs incurred by the City of Derby in cutting weeds and otherwise abating nuisances found to exist thereon.

ORDINANCE NO. 1960

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT UPON CERTAIN REAL PROPERTY HEREINAFTER DESCRIBED AS THE COSTS INCURRED BY THE CITY IN CUTTING WEEDS, REMOVING DEBRIS AND OTHERWISE ABATING NUISANCES FOUND TO EXIST THEREON.

**Hamilton Estates (Resolutions 13-2008 and 14-2008)**

**Background:**

- On August 14, 2008, a contract was awarded to Mies Construction, Inc. in the amount of \$545,740.50 for construction of sanitary sewer improvements to serve Hamilton Estates Phase 1A (Resolution 13-2008) and Phase 1B (Resolution 14-2008).
- The City utilizes flowable fill at locations where deep utilities cross proposed roadways.
- The use of flowable fill reduces trench settlement that could result in a dip in the roadway surface.
- Flowable fill was inadvertently omitted from plans for the project, was not bid, and was not included in the contract with Mies.

**Financial Considerations:**

- The additional cost to include the omitted flowable fill totals \$21,000.
- The approved resolution is sufficient to fund the additional work.
- The cost of the change order will be assessed 100% to the benefit district.

**Legal Considerations:**

- The construction contract for the project, by providing for change orders, contemplated the need for changes in the scope of work.
- The compensation due for a change in the scope of work is typically a matter for negotiation by the City and contractor.

**Policy Considerations:**

- City staff believes it is in the best interest of the City to execute a change order for the additional work and that the agreed upon cost is reasonable.

**Recommendation:**

- Authorize the City Manager to execute a change order to add flowable fill at an additional cost of \$21,000 to the existing contract with Mies Construction, Inc. for construction of sanitary sewer improvements for Hamilton Estates, Phases 1A and 1B.

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

VOTE: Motion carried 8-0.

**The council recessed at 9:41 p.m. for the El Paso Water Company meeting.**

**The council returned at 9:45 p.m.**

**EXECUTIVE SESSION**

MOTION: Arnold moved to recess to executive session for 20 minutes at 9:45 p.m. to discuss personal matters of non-elected personnel. Craig seconded.

VOTE: Motion carried 8-0.

The council returned at 10:06 p.m. with no binding action taken.

**Ms. Sexton** announced that the police chief position is open. We are creating a position profile that will be posted on our website later this week. We will also have ads placed in various professional publications which will start showing up next week. The application deadline for those interested is January 8<sup>th</sup>. She has been informed by our interim chief, Doug Chambers that he will not be a candidate for the position. The good part of that is that he will be more heavily involved in the search process. We will also be able to announce later on in January after the application deadline a little bit more about the search, interview and selection process will include in terms of involvement within the police department, senior staff, the council and the community. We will have a process similar to when we hired the assistant city manager and had some time for people to meet the applicants. It will take some months after the January 8<sup>th</sup> deadline to go through the candidates but we will talk more about process at that time.

**Mayor Avello** complimented the Chamber on Consumption Junction held last week.

**ADJOURNMENT**

MOTION: Craig moved to adjourn at 10:08 p.m. Staats seconded.

VOTE: Motion carried 8-0.

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Dion P. Avello, Mayor

ATTEST:

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Jean Epperson, City Clerk