

**APPROVED
REGULAR COUNCIL MEETING
February 27, 2007
7:00 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Craig, Jim Meidinger
Loren Johnson, Chuck Warren
Charlie Schwarz, Cheryl Bannon
Ken Mulanax

Flag salute was led by Council President Cheryl Bannon.

The invocation was led by Pastor Jon Schellenberger, First Church of the Nazarene.

**CONSIDERATION OF
MINUTES**

Minutes of the February 13, 2007 Regular Council Meeting.

MOTION: Bannon moved to approve minutes of February 13, 2007 regular Council Meeting. Warren seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, motion carried.

PUBLIC FORUM

Karen Lippoldt with Youthville. Youthville is a child placement agency for Sedgwick County. They place children that are referred for out of home placement in foster homes. She has been traveling to different communities in Sedgwick County to talk about what they are calling a crisis. You may have heard on the news recently that there is a critical need for foster homes, in Sedgwick County especially. Their biggest need right now is for homes for teenagers. Those of us who have raised teenagers understand why they are the hardest ones to place, but they are desperate. The reason she is speaking to the different communities is because we are taking kids from other cities for placement and are going from one house to another because there is no one who is willing to just open their home and take a child between the ages of 12 and 18 and that is where our greatest need is, those ages as well as special needs children. She is here for two reasons tonight, one to emphasize the need that they have; they are at a critical stage right now with 30-50 teenagers sitting on a wait list every day waiting for a home. They have a placement

department working overtime if they have to, trying to find a home for one child and if someone has to drive a child all the way to Garden City if they find a home out there that is what they will do. They are at a critical stage right now trying to find homes for these kids. The other reason she is here and going out to the other communities is to get the word out and find out about some other organizations she can talk to that may be able to spread the word a little more. It is a fairly lengthy process to become a foster parent, but it is well worth it. She advised she can be reached at 529-9279 and she will put you through to a recruiter in the area and get you started.

Vickie Walton, 108 N. Brookwood, advised that the recent knowledge of gang and drug activity in Derby and related crimes have she and her husband very frightened. They are very concerned about Derby, and most particularly their preteen grandsons who attend school here. She urges the council to thoroughly investigate obtaining a narcotics dog for the police department. She has personal experience with the abilities of dogs, as she and her dog are a certified search and rescue team available on call through a volunteer organization called the Kansas Search and Rescue Dog Association. When someone goes missing, emergency agencies can call them by pager and she and her dog can come and help find a lost or missing person. Her dog is the equivalent of 50 foot searchers; his final certification was to find multiple victims in a 160 acre tract, which they did in about 3.5 hours. Dogs are now being trained to sniff out cancer and the military uses narcotic dogs. She presented the council with some information she got from the internet, where she learned that some dogs are donated and some are purchased and some get them through grants. She also presented information on a federal grant program for narcotic dogs. She indicated that the Mulvane Police Department used to have a narcotic dog that has since been retired and has not been replaced. Detective Martin is the Wichita Police Department narcotic dog handler and their dog was donated. She advised she is willing to help in any way she can if the council decides to pursue this and she and her husband are willing to start the fundraising with a \$500.00 donation when Derby makes a commitment to obtain a narcotics dog.

Becky Robinson, 401 N. Derby, presented a flier of some upcoming events being sponsored by our community youth. One of them is the Battle of the Bands, being sponsored by the SADD Group. The Derby SADD chapter stands for "Students against Destructive Decisions", not just drunk driving and they are sponsoring the Battle of the Bands at Pleasantview Baptist Church this Friday night starting at 7:00 p.m. She also stated that Prom will be held on Saturday, April 14th at the High School followed by an "After Prom" at All Star-Sports Adventures on Webb Road, also sponsored by SADD. That will be a drug and alcohol free time that the kids can get together after Prom. It starts at about midnight and goes until about 4:00 a.m. and they are always in need of adult sponsors, money and anything that can be given as door prizes. The Relay for Life is being sponsored by Melissa Howard who is the sponsor for the National Honor Society students at the high school along with the American Cancer Society and is scheduled for Friday, April 20th at 7:00 p.m. and will go until Saturday morning at 7:00 a.m. The coalition would like to have a team on the track at all times and she encouraged the city staff to put together a team and support this issue as well. Senior celebration is held for the graduating seniors and is sponsored by the parents of the seniors and that is scheduled for Sunday, May 20th. A few ways to get involved in these events are to donate food, prizes, gift certificates, volunteer time to help set up, chaperone, sponsor or organize a Relay for Life Team, you can help spread the word in the community that the youth are up to a lot of good things as well and thank the youth for their commitment to the community and for their involvement because we do have a

lot of wonderful youth in the community who spend countless hours volunteering and tutoring and doing wonderful things in the community.

Council Member Schwarz advised he went to the school board meeting last night and before he took the podium there were some presentations by some kids, several from the alternative school, that they were doing some good things within some of the schools, as far as tutoring and giving some assistance to small children. The P.E. teacher from Tanglewood went on a trip to Japan and gave a fascinating presentation; unfortunately there were only about 100 people there, which is only about ½ percent of the population of Derby. He does not know if there is a way to come into agreement with the City of Derby for the school board to broadcast their meetings, but he encourages city staff to get with the school board and offer that to them.

Kathy Sexton, City Manager announced that we will be hosting the state legislators from this region on Saturday, March 10 at 10:00 a.m. for a legislative coffee. Some attended that same event a week and ½ ago and we had a great crowd of more than 30 Derby area residents and 10 legislators from across mostly the Sedgwick County area. We welcome any and all residents to attend to hear an update from each legislator about what committees they are on in Topeka and what types of things they are working on. The floor is also open to discuss anything that is on their mind regarding state policy issues that they want legislators to hear their voice on. The legislators will try to respond to those questions. She also showed the flag that was presented to the city by Bill Souder from public works. He is a master sergeant in the air force reserve and he left in September for a four month tour of duty in Iraq with the 931st civil engineering squadron. His specialty is air conditioning, which they need in the desert where it gets to be 130° sometimes. His other specialty is heating and it apparently gets awful cold at night in the desert as well, so he was a favorite person. He has honored us by getting this flag and sending it up with a helicopter from an army unit with the 2nd squadron, 6th U.S. Calvary regiment. They go up on daily missions in the war zone and they flew the flag and brought it back down and gave it to Bill and he packed it away in a suitcase and brought it back here. When he arrived back in Wichita in January he went to McConnell Air Force Base and made a case for the flag. He was so pleased to be supported by the community and this was the 2nd time he has been deployed to Iraq in the last two years. We are glad he is back and we are glad he is back in time for summer.

Council Member Craig stated he would appreciate if staff would craft a letter to him for the signature of everyone on the council. He feels it is very important, one for his service to our country and for bringing the flag back, not only as a memento but as a symbol of what it takes to really do something for the cause. Regarding the legislative coffee on March 10, he requests that we host them in the same manner we did the first time with a few ground rules this time that might assist us in moving along our agenda. He encouraged folks in Derby to attend that, it is a time for the constituents to make their legislators accountable through their questions, just like you can make the council accountable through questions and public forum. He thinks the last forum was successful and this one can be even more successful. He thanked Mrs. Walton for her presentation, it was very appropriate for this time and some of the situations we have had at hand. He thanked those citizens that come to the council and make statements and give us information because that is the way we learn.

Council Member Bannon asked if the legislative session could be televised.

Ms. Sexton stated they could ask if that is something they would like to do.

Council Member Bannon advised she thinks it would be beneficial for those that may not be able to get down here.

Mayor Avello asked if we could get them to stay 2 hours.

Ms. Sexton commented that they stayed more than 2 hours. It was a 10:00 to 12:00 event and it ended at about 12:05. The first one they had in west Wichita was very brief, there weren't very many people that attended. Last Saturday they were at WSU and there were about 30 people there. Some people like to come to listen, they don't necessarily want to speak and that is okay, you don't have to speak just because you come. You can learn just by listening to what they are all doing, they work hard in Topeka.

Council Member Craig suggested a time limit be imposed on some of the speeches being presented.

Ms. Sexton explained that we are hosting, we are providing a room and coffee, we are not running the meeting. It is the chair of the legislative delegation's duty to run the meetings. She does not know if the one they ran here was sort of their typical meeting. It did get a little long so if they see the room fill up like it did last time they will probably not only be excited to come back to Derby because people are interested in what they are doing and willing to come on a Saturday morning, but they might see that they want to set some time limits to make sure they have time to hear everybody.

ADULT ENTERTAINMENT ORDINANCE

Phil Alexander, City Attorney presented the staff report.

Roger Theis, Hinkle Elkouri, explained the ordinance to the council.

Background:

- Derby currently has two ordinances regulating adult entertainment, both dating from the mid-1990s.
 - City Code section 4.16.120: Prohibits nude dancing in establishments licensed for sale of alcoholic liquor or cereal malt beverage.
 - City Code sections 5.32.010 and 5.32.020: Adopted articles V, VI and VII of Sedgwick County Adult Entertainment Code pertaining to arcades, theaters, massage parlors and escort services.
- Both ordinances have become dated by reason of changes in the entertainment industry and regulatory changes in other area municipalities.
- The proposed ordinance represents a substantial revision of adult entertainment regulations within the City.
- Staff anticipates future presentation of ordinances –
 - 1) Regulating operation of escort services, and
 - 2) Amending the City's zoning code to specifically address adult entertainment businesses and identify zones and locations where such uses will be permitted.

- Amendments to zoning regulations must be reviewed by the Planning Commission before being considered by the City Council.

Financial Considerations:

- The proposed ordinance includes licensing fees for both adult entertainment businesses (\$1,000/yr.) and adult entertainers (\$150/yr.).
- Currently, Derby has one adult business; a second is reportedly planned on the site of the old “Beach House” on Nelson Drive.
- Given the small number of adult entertainment businesses in the City, licensing revenue is not expected to be substantial.

Legal Considerations:

- Most forms of adult entertainment include an expressive component which is entitled to limited protection under the 1st Amendment to the U.S. Constitution.
- Courts have repeatedly held that cities may regulate adult entertainment in order to minimize the “secondary effects” of such businesses.
- Secondary effects are consequences which, though not specifically intended by operators of adult entertainment businesses, both experience and research have shown to be coincident with such businesses.
- The attached ordinance is in draft form; any necessary formal or technical changes, including insertion of dates and section numbers in blanks, will be accomplished prior to consideration by the Council on February 27.

Policy Considerations:

- Extensive research in cities throughout the nation has established a connection between adult entertainment businesses and a wide variety of adverse secondary effects including, among others, increased:
 - Violent crime
 - Property crime
 - Drug use
 - Prostitution
- Council members have personally reviewed the results of this research and could reasonably conclude that without adequate regulation of such businesses, Derby would experience similar results.
- Principal features of the proposed ordinance –
 - Prohibits public nudity, generally defined as the showing of the genitals, anus, anal cleft or cleavage, or female breast below a horizontal line across the top of the areola with less than a fully opaque covering.
 - Licenses would be granted/denied by the City Clerk based on the applicant’s satisfaction of precise criteria, such as age and prior criminal history.
 - License revocations could be appealed by the licensee to the City Council, where a hearing would be conducted.
 - Establishes licensure requirements and fees for several types of adult businesses as well as for adult entertainers.
 - Regulates the conduct of adult businesses, such as by prohibiting physical contact between adult entertainers and patrons.
 - Permits inspections by the City for compliance with the Ordinance’s provisions.
 - Repeals sections 5.16.120, 5.32.010 and 5.32.020 of the City Code, regulating adult entertainment businesses generally.
- The proposed regulations, together with anticipated amendments to the City’s zoning regulations will –
 - Reduce or eliminate the adverse secondary effects of adult entertainment businesses without unreasonably restricting expression protected by the 1st Amendment; and

- Be at least as restrictive as those of surrounding communities.

DISCUSSION:

Council Member Bannon stated that our liquor establishments are currently open until 2:00 a.m. and the ordinance states these would have to close at 1:00 a.m., is there a reason for making this an hour earlier.

Mr. Theis advised that would be totally within the council's discretion.

Council Member Bannon asked if it would be an issue to change the time to 2:00 a.m.

Mr. Theis stated that the council has the latitude to set the policy and these are just guidelines, the council is the policy maker.

Council Member Bannon asked if dancers currently had to be 18 or 21 years of age.

Mr. Alexander stated he believes the current minimum age is 18.

Council Member Bannon stated it is feasible then that the ones that are currently dancing and between the ages of 18 and 21 will no longer be able to entertain until they become 21, is that correct?

Mr. Theis advised that would be one of the effects.

Council Member Craig asked for clarification in Section 10, under item A1.

Mr. Theis advised that has since been revised.

Council Member Warren asked if the fees being charged for licensing were adequate. He also asked if the city clerk and police chief had reviewed this and are comfortable with responsibilities that are being placed upon staff to make sure this ordinance meets the guidelines that we are looking for.

Ms. Sexton stated that they are trying to make sure that the fees will cover application type procedures, paper work so to speak. We are not trying to make sure that it covers all the enforcement. We did not do a detailed study of how much police work is required to do the checks and all of that, but as far as the application and all of the stuff up front, it will cover it.

Council Member Mulanax asked if the licensing fees were just pulled out of the air or are those consistent with other communities in the area.

Mr. Theis advised they were not pulled out of the air, but to say they are exact with others, not precisely, but in the course of this review they are certainly within the range and again, that would be a matter that is probably not going to be compelled by legal precedent, it will be a matter within the council's discretion that they think is consistent with the city code as now drafted on other matters.

Council Member Craig, on page 7, under definitions regarding the definition of school, it only addresses grades K-12, what happens if we have a college satellite campus come in, wouldn't we want that to be in there?

Mr. Theis explained that some choices were made in the drafting, this again is not compelled by legal precedent, it would be the council's discretion whether they wanted to expand that definition in some manner to be more inclusive

EXECUTIVE SESSION

MOTION: Bannon moved to adjourn to executive session at 7:40 p.m. for a period of 30 minutes to discuss matters under attorney client privilege. Craig seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, motion carried.

MOTION: Bannon moved to extend executive session at 8:10 p.m. for an additional 30 minutes, to return at 8:40 p.m. Mulanax seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, motion carried.

The council returned from executive session at 8:40 p.m. with no binding action taken.

Mayor Avello advised the attorneys will be making some adjustments to the ordinance and then they will come back to it.

BIDS FOR WATER LINE IMPROVEMENTS, THE OAKS ADDITION, PHASE 5 AND PHASE 7

Dan Squires, City Engineer presented the staff report.

Background:

- A bid opening for the construction of Water Line Improvements to serve The Oaks Addition, Phase 5 and Phase 7 was conducted on Tuesday, February 20, 2007 at 2:00 p.m.
- Requests for quotations were submitted to contractors after advertisement in the appropriate publications.
- The following bids were received by the City Engineer's office and witnessed by the City Clerk:

Duling Construction	\$101,180.00
Mies Construction	84,226.50
Dondlinger & Sons	78,129.00
Nowak Construction	71,855.00
Utilities Plus	62,781.50
McCullough Excavation	53,850.00
Engineer's Estimate	55,902.00

Financial Considerations:

- Funds for the construction work were included in the 2006-2 temporary note issue.
- Costs for the Water Line Improvements will be paid 100% by the benefit district and none by the City-at-Large.
- Special Assessments will be spread against the benefit district properties over a 15-year period.

Legal Considerations:

- The City has followed all statutory procedures in securing financing and in planning the project.

Policy Considerations:

- McCullough Excavation 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 Mayor's and City Clerk's signatures.

MOTION: Warren moved to approve the bid of McCullough Excavation in the total amount of \$53,850.00 for the construction of The Oaks Addition, Phase 5 and Phase 7 Water Line Improvements. Mulanax seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

**COMMUNITY
DEVELOPMENT
SOFTWARE**

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

Background:

- The community development software currently utilized by the City (Tidemark) is approximately 15 years old. It is outdated and technical support is no longer available.
- Staff utilizes this software to issue and track permits, contractor's licenses, and code enforcement violations.
- Staff has been researching and evaluating software options to replace the outdated Tidemark software for more than a year.
- A total of six software programs of various scopes and costs have been evaluated by a team of staff members who will typically utilize the new software. The evaluation included in-house demonstrations of the two programs (Interlocking and EnerGov) thought to provide the best value to the City.
- Criteria used to evaluate the software include: cost, ease of use, capabilities, expandability, required server type (Oracle or SQL), maintenance cost, and technical support.
- The expanded capabilities of the proposed new software include: mobile real time entry of inspection and code enforcement information; internet access for scheduling and follow up on inspections and requests for service; compatibility with the City's existing geographic information system (GIS) software; and electronic internal scheduling/tracking of plan reviews, inspections and other city processes.
- The selection committee selected the EnerGov software as the best overall value to the City.

Financial Considerations:

- The cost for the proposed EnerGov community development software is \$73,200 for the software installation and set up and an additional \$10,000 will be needed to purchase new equipment (computer server; 2 lap top computers and 2 mobile printers) (total software and equipment - \$82,200).
- Staff estimates that an additional \$5,000 - \$10,000 will be spent converting old Tidemark data to Laserfiche.

- The approved 2007 budget includes \$125,000 for the purchase and installation of this system, and labor to archive information from the existing system.
- Annual maintenance cost for this software is \$8,000, which includes free upgrades as they become available.

Legal Considerations:

- There is no requirement for competitive bidding of computer software.
- The process followed to identify suitable software and negotiate its purchase was appropriate for this type of product.

Policy Considerations:

- The City is in need of a new software program to track permits, inspections, contractors' licenses and code enforcement violations.
- The proposed software replaces the City's existing outdated software and provides better service to contractors and residents.
- The purchase has been reviewed and approved by the city's Bid Board.

DISCUSSION:

Council Member Schwarz asked about tech support.

Mr. Brown explained that Ener-Gov has 105 installations across the country, with 25 employees. Inter-Locking has only 10 installations with 50 employees. Staff feels like we have a product that is better and easier to use, not only by staff but by the public that will be able to have access to this information on the internet, by applying for permits and checking on the status of inspections and permits. The maintenance cost per year is going to be about the same dollar wise for each of those. Inter-Locking is an Oracle based software which requires an additional \$6,000 per year just for the Oracle support. The best value for the city is Ener-Gov and staff feels very comfortable with the tech support they are going to offer.

Council Member Schwarz asked about data conversion, is there anyway to get the data into the software, or is that even practical.

Ted Austin, Director of Operations explained it was a dollars and sense decision that was made. They could get the date into the system but it would be very expensive because they would have to do a lot of manual work with those records because it is a different data base to make them match. So some time ago staff discussed it and felt like that for the older data they could get by with just imaging it and having it available to look at on the occasions they need to. They will go back and take the most recent data and put it into the new system. There will be a cut off time and you will look at the image for the old data and the new data will be online.

Council Member Johnson advised that \$125,000 is a lot of money. He can do licenses and permits at home on an excel spreadsheet in his spare time so obviously there is more being done than that, he asked what kind of programs are involved.

Mr. Brown explained it tracks all of the inspections for each house, each structure that is inspected by our department. One of the new features that this will allow us is that the public will have access to some of these records through the internet with this software. As a citizen you may see some tall weeds somewhere, you could get on the internet and make a request for service for the city to investigate those weeds or tall grass. You can also get on the internet later and see what action the city has taken on that particular item. It is for permits, applications, tracking of code enforcement, planning items engineering items, tracking inspections and final record keeping of our inspections. There is another module that this software has available in the future that we did not include in this particular proposal which is a voice activated system

where you can access the same information over the telephone. You can call and make a request for service and call back later and see what the status is. We get hundreds of requests for service through the year; those are all recorded by our front desk on a piece of paper and distributed to various folks in the organization for action. Getting that back to a central point and knowing who is doing what is sketchy at best at times so this will allow all that information to go into one database and have access for all folks here at city hall and also the citizens.

Council Member Johnson asked if engineering data were on this also.

Mr. Brown advised there is the capability of tracking plans as they come in. At this point the plans are not going to be sent to us through this software but we have a method of tracking where they are. An engineering firm in Wichita may send us down a set of plans to review, we can load that into the software and through the internet, from their Wichita office they can check the status of the review rather than calling us or coming in, which is a service we have not been able to provide.

Council Member Craig advised that when you add all the figures up it comes up to a little over \$104,000 which would be \$20,000 under the estimate, is that correct?

Mr. Brown advised that was correct. The \$8,000 is an annual cost which probably won't kick in until the 2nd year.

Council Member Craig pointed out they have gotten four years of service for the budgeted amount of money which is very good. He pointed out that this software is 15 years old and suggested that we not let that happen again because in the end it costs a lot of money to change over. It costs a lot of money to keep it continually every year or two but 15 years is a long time to go in this state of electronic media and information.

Council Member Bannon asked if training would be provided for the builders so they can order inspections on line. It was discussed in the past having zoning and platting maps on the internet because we have had situations where people have moved in to housing developments not knowing what the zoning and platting was that had already been done. She asked if this software would allow that capability. She also asked if it would allow specials information because we have also had issues with that previously.

Mr. Austin stated we are looking at a different avenue for the zoning/plat map. That would tie to the parcel data that is in this software, it is GIS ready and is made to attach to whatever visual methods we want to provide, so it would tie to that but you have to have another piece to get the pictures out there. Regarding specials, he does not believe this one has a place for specials information, typically we have sent people to the county for that because they have the official records.

Council Member Bannon explained she was not talking so much about the total specials you can get via the tax information, but the specials problems we have had before where homeowners have bought in a subdivision and there is a delayed special that does not become active until later down the road and that would tie into the platting and zoning maps for subdivisions.

Mr. Austin explained that you can put information about parcels on that parcel information but they would have to discuss how to best get that done so it is clear what it is providing.

MOTION: Warren moved to approve the purchase of EnerGov community development software and related equipment. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

MOBILE COMPUTER MODEMS

Jay Reyes, Chief of Police presented the staff report.

Background:

- In 1998 Sedgwick County received grant money to purchase and install mobile computer terminals (MCT's) in patrol vehicles.
- MCT's allow officers to receive data messages, send records checks, and communicate with other local and state agencies from their patrol vehicles.
- Derby was one of many local agencies in Sedgwick County that were included in the initial MCT project.
- Sedgwick County will be upgrading its Computer Aided Dispatch (CAD) system during 2007. In addition to increasing modem speed, the upgrade will include the addition of global positioning capability. Current modems run at a lower Baud rate and need to be upgraded in order to be able to communicate effectively and reliably with Sedgwick County's new CAD system.

Financial Considerations:

- Funding is provided in the 2007 Operating Budget in the amount of \$35,000 for the purchase of Data Radios.
- The cost to purchase eleven Data Radio modems totals \$33,560.

Policy Considerations:

- The bid from Data Radio was reviewed and approved by the Bid Board.
- Data Radio is the sole source vendor for the mobile computer modems and they have a contract price with Sedgwick County. The Derby Police Department contacted Data Radio and obtained a bid for eleven units. Bids match the price quoted for Sedgwick County.

DISCUSSION:

Council Member Craig asked if there were a projected date of implementation with Sedgwick County and when their system will be on line.

Chief Reyes advised it is being worked on right now, but he cannot provide a definitive date.

Council Member Craig asked the anticipated time to get this in service for our vehicles.

Chief Reyes explained it will be purchased through Data Radio which is a sole source vendor that was sole source through Sedgwick County. When we put in the order it will depend on their delivery date, then he believes the process will be for their radio shop to do the conversion.

Council Member Schwarz asked if this interfaced with any other internet capabilities or is it a closed system for dispatch and so forth.

Chief Reyes advised he believed it was closed.

MOTION: Warren moved to approve the purchase of eleven (11) Data Radio modems with GPS in the amount of \$33,560. Schwarz seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

EXECUTIVE SESSION

MOTION: Bannon moved to adjourn to executive session to discuss acquisition of real estate at 8:55 p.m. for 25 minutes, to return at 9:20 p.m. Warren seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

The council returned from executive session with no binding action taken.

MOTION: Bannon moved to take a 5 minute recess at 9:23 p.m. Warren seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

SPEED TRAILER MONITORING PURCHASE

Jay Reyes, Chief of Police presented the staff report.

Background:

- The Police Department is seeking to replace the existing speed trailer which is over eight years old and no longer serviceable.
- The speed trailer will be placed in residential and high traffic areas of the city where traffic complaints are received. The unit will assist officers with speed limit education and enforcement.
- The speed trailer will also give the police department new capability to collect data on traffic volume and speed, which will be used to deploy officers more efficiently for enforcement activities.

Financial Considerations:

- The cost of the Speed Monitoring Trailer is \$7,895, which is provided through the Community Safety Fund and through grant money received.
- Vendor spreadsheet is attached.

Policy Considerations:

- Invitations were sent to three radar manufacturers for a Speed Monitoring Trailer.
- Sealed bids were received by the City Clerk's office and opened publicly on January 24, 2007.
- Bid board approval has been received for this purchase.

DISCUSSION:

Council Member Bannon stated she recently saw a newscast about a program called the “Leaso” program where Government has items that they sell at a very low cost, with 5% being paid to the state. Some of the small communities around have received some items from that and she questioned if we were too big to qualify for that or if it is just something we haven’t looked into yet.

Chief Reyes advised that in 1994 the National Defense Authorization Act, Section 1122 provided a means for municipalities, states and local governments to purchase some of the surplus items as well as purchasing items using the GSA contract prices. We are aware of it and he believes in the past Derby has been able to secure some surplus property from the military for use by the Swat team. It is out there, our point of contact that handles that is with the highway patrol and they will send us out periodic notification of different types of equipment that is available. We are always looking at ways we can wisely spend our money and he appreciates that being brought up.

MOTION: Warren moved to approve the purchase of one (1) Traffic Speed Monitoring Trailer in the amount of \$7,895 from Decatur Electronics. Craig seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

VEHICLE PURCHASE

Jay Reyes, Chief of Police presented the staff report.

Background:

- The police department has two patrol cars, two staff vehicles and one animal control truck scheduled to be replaced in 2007 due to age and mileage.
- In late 2006, one staff vehicle not scheduled to be replaced was totaled in an accident when it was struck by another driver while it was legally parked.
- Vehicle bids were solicited from eleven (11) car dealerships representing Ford, Chrysler, Jeep, Chevrolet and Dodge.
- These are approved budget purchases.

Financial Considerations:

- Bids for the proposed vehicle purchases are within budget and total \$90,060. An itemized listing follows:
 - (2) Crown Victoria Police Interceptors at \$46,100 (\$23,050 each)
 - (2) Chevrolet Impala 4-door sedans at \$27,775 (\$13,887 each)
 - (1) Ford F-150 pickup truck at \$16,185
- Funding from insurance settlement will be used to purchase a third Chevrolet Impala at a cost of \$13,887.

Policy Considerations:

- All requirements of the City of Derby Purchasing Policy have been met.
- Bids have been reviewed and approved by the Bid Board.
- Staff is recommending approval of the low bids.

DISCUSSION:

Council Member Bannon thanked Chief Reyes for the number of bids, she appreciates that.

MOTION: Bannon moved to approve the purchase of two (2) 2007 Ford Crown Victoria sedans from Stephen Ford, one (1) Ford F150 truck from Stephen Ford, and three (3) Chevrolet Impala sedans from the KHP Partners Program, with the total cost not to exceed \$103,947.95. Schwarz seconded.

DISCUSSION:

Council Member Craig expressed his desire to have one of the new vehicles marked as a K-9 vehicle and requested that funding for a dog and handler be placed in future requests for funding. The public is starting to make itself known about certain conditions we have here and he does not think we can further avoid looking into being more proactive in our endeavor to reduce drug traffic and to police certain establishments in our city. It is not just a one time thing that we are looking at surveillance of the high school parking lot or business establishments in town, it has multiple uses and it should be taken under real serious consideration.

Council Member Mulanax stated that the chief had talked at an earlier meeting about traffic enforcement units and asked if these are those two cars, or are they separate from that.

Chief Reyes explained the vehicles for that would be under an equipment grant that the state has. This is the normal patrol rotation of our inventory that they currently have.

Council Member Mulanax stated he assumed that the KHP partners stood for the Kansas Highway Patrol.

Chief Reyes stated that the KHP partner is a program that is actually an offshoot of the 1182. We were able to secure extremely good prices on the Chevrolet Impala's, somewhere around \$13,887 for a 2007 and we were able to secure that by being a member of this partnership and being able to get the GSA buying power through that organization. They are our state point of contact and not only did we send out bids but we notified them of what our requirements were. They took that into consideration, went into their inventories and vendors, and came back with the price that we have. We were close to \$5,000 under what we had budgeted. It was a very wise move on our part in spending our tax dollars.

Council Member Warren stated it sounds like we are starting to see an increase in drug use, or at least our awareness and maybe it is something that has been going on for quite some time. It sounds like a decision has almost been made that we are going to get a dog and go that route and he thinks we need to have a discussion on what is going to be the best way to handle this kind of situation. For example, maybe we want to partner with some other government entities such as Sedgwick County or the City of Wichita rather than having our own dog. We need to have a fairly broad discussion far enough in front of the next budgeting process so that we are not pressured into making a budget decision without looking at all of the options that are out there. Sometime between now and before we begin the budget process we probably need to have a discussion on some of the options that are available to us on where we are going in the future with our police department, what are our priorities going to be and how we are going to meet those priorities.

Council Member Craig stated that was well said by Mr. Warren and it reinforced exactly what he said. He is not making a decision ahead of time but it is up there, it's visible and it's time to do exactly what Mr. Warren is calling for. The city is to the point right now where it will discuss

and make the right decisions and move forward, but we can't do it without proper budget authority and that's coming up within the next 4-5 months. Mr. Schwarz spoke at the school board meeting the other night and offered all the resources that were available through the city. If they need help we are here with an extended hand to help them meet the problems that they might have. This city is not known as USD 260, Kansas, it's known as Derby, Kansas and all those things that are under that are a subset and reflect on us as a city. We are moving in the right direction and we will continue to do that.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

CODE OF MEETING PROCEDURE

Mandy Wagner, Assistant to the City Manager presented the staff report.

Background:

- Agreeing upon and following a code of meeting procedure is an important component of running an efficient public meeting.
- A code of meeting procedure is an agreed upon set of rules for the protocol of running the meeting, addressing issues, and taking action on items. The purpose of an adopted code is to have an official guide on which to rely and reference.
- In Kansas, most municipal bodies follow a meeting procedure based on Robert's Rules of Order. There is no mandate for what code of procedure should be followed. As long as all members understand and agree to follow the same code of meeting procedure the meeting will be fair, efficient, and productive. Many communities customize their meeting procedures to fit the individual needs or circumstances of the elected body.
- The attached Code of Meeting Procedure for the City of Derby is based on Robert's Rules, and it also incorporates previously adopted policies of the Derby Governing Body as well as common practices of the Governing Body that have yet to be formally adopted.
- Though presented here in text format, once adopted it will be distributed as a small booklet to which members of the Governing Body, the public, staff, and media can easily refer.

Legal Considerations:

- Adopting and following a Code of Meeting Procedure avoids arbitrary and capricious actions which could invite legal challenges from other parties.

Policy Considerations:

- In adopting the Code of Meeting Procedure, the Governing Body establishes a policy for consistently conducting its meetings.

DISCUSSION:

Council Member Craig asked if this is a code of meeting procedure as it applies to the governing body.

Ms. Wagner advised it does apply to the governing body.

Council Member Craig asked if there were a code of meeting procedure for the board of directors of the El Paso Water Company.

Ms. Wagner advised they could definitely do that and it should be a quick and easy process, it could be done in a separate document or it could be attached to this one.

Council Member Craig asked for clarification on section 46 regarding consensus vote.

Ms. Wagner explained the chair throughout the document is referred to as typically the mayor, but it can be the council president in the absence of the mayor.

Council Member Warren clarified that a charter ordinance is used if we want to do something different and exempt ourselves from the state prescribed way of doing things, versus an ordinary ordinance is just the run of the mill, normal things we do.

Mr. Alexander explained that we adopt a charter ordinance when we are currently governed by a state statute and we want to adopt a different procedure than what state statute requires. What we do is exempt ourselves from the state statute and then we provide whatever alternate provisions or procedures that we want.

Council Member Warren stated it is his understanding that the mayor will automatically be voting on charter ordinances but all others he would only vote in case of a tie.

Mr. Alexander advised that was correct. On a charter ordinance, by statute, the mayor has a vote.

Council Member Craig clarified that regarding Item 46, we can give guidance without a motion, in other words, you can call for a consensus vote, but he is confused that the chair has to make that decision. It does not give him the authority as a member of the council to call for that vote, or does it?

Ms. Sexton explained that the way she reads it, for example, earlier in the meeting we were saying we want to have a budgetary and a policy discussion about having a drug dog and that would be the chair stating the essence of the opinion, the guidance, and basically asking if that is what the council wants and everyone kind of says yes. It is a rather new item for the council and some of this is what the council has done for years and we are just putting it on paper. Some of it came from the League of Municipalities, so if that is something you would rather not have, you can strike the whole section.

MOTION: Warren moved to adopt the proposed Code of Meeting Procedure with changes. Craig seconded.

Ms. Sexton advised it was pointed out to her earlier that we might have stated something wrong in Section 30. She has conferred with counsel and she and Mr. Alexander agree they need to make a side amendment to Section 30 on the motion to recess to executive session. In the paragraph it states “the motion to recess to executive session shall be made as follows....”. She suggested the deletion of the words “time not to exceed” so it would say “move to recess in order to discuss a topic for a period of ___ minutes”. Essentially when you move to go to executive session you cannot come back sooner than the amount of time you said, by law. So the “not to exceed” as Mr. Johnson pointed out earlier was incorrect. You state 30 minutes and you can’t come back until 30 minutes has expired. If you can’t do it in that time, you come back and get more time so everybody knows what to expect.

MOTION: Warren amended his motion to reflect the change of wording to “move to recess in order to discuss a topic for a period of ___ minutes. Craig seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

Return to Adult Entertainment Ordinance:

Ms. Sexton passed out a revised version of the ordinance. There was a draft that was distributed last week and a few changes have been made since then in terms of some edits and clean up that were referred to a little bit before executive session.

Roger Theis went over the following changes with the council. Page 7, definition of school enlarged to include a licensed daycare center as well as an accredited institution of higher education. Section 8, A-4, pg. 13, changed to applicant must be at least 18 years of age. Section 9, page 14, appeal hearing will be held within 10 days from the filing of the notice of appeal by the city council or a subcommittee thereof. Section 10, A-5 regarding hours of operation changed to reflect “no adult establishment shall be open at anytime between the hours of 2:00 a.m. and 6:00 a.m.

Ms. Sexton advised the section Roger is looking for is the section that talks about the entertainers and the age requirement. Previously Roger explained it was 21 and now it is 18, which is consistent with other drinking establishments and other adult entertainment establishments in other communities around here. You need to be 18 to be an entertainer employed at these types of facilities and you need to be 18 to come into the facility.

Mr. Theis stated that information is in Section 10, A-1 and A-2.

Ms. Sexton pointed out that the attorneys have spent a lot of time going through this and she feels confident that we have a good ordinance to present tonight. If it is passed, we will not be done with regulating adult entertainment because we chose to make this rather lengthy ordinance shorter than we could have by taking out the regulation of escort services and adult hotels. We are putting that in a separate ordinance because those kinds of places are so much different than these kinds of places that currently on the books we have one big ordinance regulating all of it. It is really a different deal and we would like to have a separate ordinance, so we will be back at a future meeting with another ordinance on that. You might recall also that we are working on an update to the zoning regulations and that would be an amendment that would go first to the planning commission with the public hearing, and then to the council, so we will have a future date on that as well.

Council Member Bannon asked when this will become effective if passed tonight.

Mr. Alexander advised it would become effective upon publication, which would be March 7th.

Council Member Warren advised the council has heard the concerns of the citizens, they know the effects that businesses can have on secondary issues and he appreciates both staff and our attorneys giving us that information so we could take a look at secondary issues so what we do here is defensible and we are in line with the constitution, trying to regulate in such a way that

we don't get ourselves sued unnecessarily yet meet the desires of our citizens. Hopefully we have come up with something that does that.

MOTION: Warren moved to adopt an ordinance regulating adult entertainment businesses and repealing sections 5.16.120, 5.32.010 and 5.32.020 of the Derby Municipal Code. Meidinger seconded.

Council Member Meidinger thanked staff and everyone involved in this. It shows it makes a difference when the citizens say they don't like something and the council responded. He thanked staff for getting this document prepared and he thanked the citizens that helped get this started.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

Council Member Meidinger commented that since we are getting into the water season, he asked if we have done anything more about charging for water wells in the city.

Ms. Sexton advised the council has not addressed it yet, but it is in the process of being updated on the fee schedule.

ADJOURNMENT

MOTION: Warren moved to adjourn at 10:00 p.m. Craig seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren yea Schwarz yea, Bannon yea, Mulanax yea, 7 yea, 0 nay, 0 absent, motion carried.

Dion P. Avello, Mayor

ATTEST:

Jean Epperson, City Clerk

[Return to agenda](#)