

**APPROVED
REGULAR COUNCIL MEETING
July 10, 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
Mark Staats

COUNCIL MEMBERS ABSENT:

WARD IV

George Arnold

Flag salute was led by Council President Charlie Schwarz.

The invocation was led by Pastor Rick Crossette, Praise Assembly of God.

**CONSIDERATION OF
MINUTES**

Minutes of the June 26, 2007, Regular Council Meeting.

MOTION: Schwarz moved to approve minutes of June 26, 2007 Regular Council Meeting. Warren seconded.

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

PUBLIC FORUM

Paul Muehring, 1518 Cardinal Ct., pointed out the timeline of the budget indicates tonight's date as a night for public comments regarding the budget. His concern is that there has been very limited citizen information on the budget. It has been talked about several times at various meetings and has been in the paper, but to the best of his knowledge he may be the only member of the community that has a copy of the budget. He pointed out that although it is a nice book he is not sure it is worth the \$25.00 it cost him. Last year it is his understanding that we made this available for \$10.00.

Kathy Sexton, City Manager indicated that was not correct.

Paul Muehring stated that if you are going to be asking for citizen input at this forum this evening, he questioned why we don't have a little bit wider dispensation of this. He understands there is one copy of it supposedly at the senior center, there is a copy, or two copies at the library and he thinks that is the extent of the number of copies that have been distributed outside of the nine council members and city staff. It is a little difficult for the citizens to come forward and make comments on this tonight per staff's schedule, based upon the fact that there has been limited distribution of the budget. He went on to say that he has gone over the law enforcement portion of the budget, and he dare say he did not find the item that he was looking for. He noted that the citizens of Derby paid \$1,500 to the Derby Twins for free admission for a certain number of citizens to several Twins games.

Ms. Sexton clarified that she believes that was the amount from last year. This year it was \$2,500 for seven games.

Mr. Muehring advised that the citizens paid \$2,500 so the citizens could get into the games. His question is if you have \$2,500 to pay for admission for Twins games, do you have \$2,500 that you could put towards a drug dog. You are really giving away something with the admissions to the Twins games, and that is a nice thing, but do you have \$2,500 that you could put towards getting a drug dog, or better yet a canine unit for the City of Derby, something that we really need to prevent drug abuse at the high school and middle school which is rampant. Many people do not like to discuss that and many people don't want to hear him say that but it is the truth. If we can afford \$2,500 for admissions to Twins games, ladies and gentlemen, can we not afford \$2,500 for a drug dog, or maybe a little bit more. He believes that several years ago there was \$3,500 that was paid for the dog that died and that money is still in an account somewhere.

Allison Moeding, Director of Economic Development presented a copy of the August issue of Family Circle Magazine. This is the magazine in which Derby was named one of the top 10 towns for families in America. This is a very important award that is a symbol of our community, it is not just what we do here at the government level, but it's our schools, recreation programs, community foundation, businesses, civic groups, it is everybody that comes together and makes Derby a great place to live. She read a copy of a letter from the editor in chief of the magazine. She shared a copy of the plaque the magazine had framed and sent to us and it will be placed in city hall for everyone to see. She also showed a copy of the top town's logo that we will be using as much as we possibly can over the next twelve months to share the great news that Derby is a wonderful place to live and work. From her perspective in the economic development field, communities are often looking for ways to set themselves apart and awards like this are one way we can do that.

Mayor Avello pointed out that this was an unsolicited award, we knew nothing about this.

Ms. Moeding agreed. She explained that we got a call in April from a freelance writer who works for the magazine. It was a very cryptic request and he was looking for families that had certain characteristics, with a certain number of kids he could interview. He was provided with some names and went off and gathered his information. We really didn't get a chance to see the story until we got a copy of the magazine late last week. This is the first year they have done

this award and they worked with a data firm to get lots of information about communities and looked at things like affordable housing, crime rates, median income, recreation facilities, etc., all those things that we in Derby are very proud of. It definitely shows that we fit this award to a “t”. It was not solicited and we didn’t pay a dime.

Council Member Bannon also wanted to stress that we did not solicit this; she has had several people question who nominated the city. They started out with 1,850 cities and we made the top 10 from that. She thanked all of the citizens, the businesses and everyone in town because we may sit up here and make policy, some good decisions and some bad decisions, but this a community and that is what got us in this magazine. We are a great place to live, it’s not the perfect place to live, that does not exist, but we are a great place to live. She went on to mention that there is a business that is no longer in business up north and there are a number of corporations looking for places to have picnics and celebrations and she wondered if there were any way to contact them and make Rock River Rapids available for any of those corporate parties who are having to reschedule. There were news articles on television tonight that a lot of companies had already booked picnics and they have no place now to hold those and we have this wonderful facility. She commented about the statements made by Mr. Muehring, it was \$2,500, it comes from fireworks stand sales and that is money that so much of it is set aside for the fireworks display, so much of it for child safety education, and the rest for grants. Some of that money has been used to pay for Twins tickets; it has also been used for the concerts. That segues into the blues concert, everyone knows our weather situations of late and it has been rescheduled to September 29th. Tentatively we are trying to reschedule the fireworks with it, so it would be a heck of a show. She thanked everyone for attending; we had a good turn out for the 4th of July.

Council Member Schwarz stated that most of the council either live, work or retired in Derby but he works in Wichita. He has had a number of people ask him what we are doing in Derby and he tells them it is nothing we haven’t been doing for a long time. The articles in the paper and the TV stations really brings an immense amount of pride to him for the community we live in. One of the articles mentioned people going up and down the streets picking up trash; they do that in this community. It is a wonderful community to live in. Not to dwell on the happenings up north, but it also brings to light controlled growth and a city not becoming overly aggressive in their tax incentives and tax abatements. He thinks we have a pretty good combination of all those factors here in town.

Council Member Warren commented about the Family Circle award. It would be nice if we could sit up here and say that we had a lot to do with that, but in reality something like that has been in the making for 50 years or more. We have had probably 100 or more folks that have sat on the council through the years; we have had an active Chamber of Commerce, Lions Club, Optimist Club, a whole host of volunteer organizations and people that serve on the school board. It is truly a community award that spans the gambit and thanked everyone that has volunteered. If you are a volunteer for anything in Derby, those are the types of things that make Derby a great place to live and a great place to raise a family. He thanked all those that helped on the 4th of July celebration, even though the grand finale was rained out there was a lot of work that went into it. He thanked all those that served on the committee and he thanked city staff, not only the directors but all those that worked under them. They worked really hard to make it a

great evening. We have some things we learned in the process and found things we can improve on, but it was a great first time event at High Park and it is one of the things that make Derby great. He also thanked the VFW for putting on the parade. He has received some e-mails regarding the concerts. We have had decent attendance at those but there certainly is a lot of room for a lot more folks. If you haven't been a part of those, take the time to go down and enjoy those concerts, it is a great time. He hopes to see that expand next year in terms of the number of concerts we do.

Council Member Staats pointed out that Family Circle Magazine mentioned that Rock River Rapids was a family friendly park for Derby. Last Friday he took his 5-year old son there for the first time not knowing what to expect. They were busy, one of the managers told he there were approximately 1,700 people there. He commended the staff for doing a wonderful job with all the people there. He was not looking forward to it at first but he and his son had a wonderful time.

Council Member Meidinger advised he received several calls from people regarding fireworks going off after 10:00 p.m. He told them he had no idea what to do about it as he was out of town. One lady was concerned because she had to work the next day and she did not get a good response that she was looking for. He told her he did not have a good answer but would bring it up at a council meeting and go from there.

Ms. Sexton stated that the main thing is, at the time people see the fireworks going off and they believe they are being done illegally; they need to call the police department and report that. That is exactly the thing that needs to happen because we can only catch violators if we know about them. The police department always increases their staffing at this time and they are always very busy, they need to either catch people in the act or they need to have witnesses.

Mayor Avello advised he has also received calls regarding this issue. The citizens in this community are good people but he thinks they are taking it a little bit too far. We are going to open up the ordinance on fireworks, which is pretty light and look at some changes, he and Ms. Sexton have already talked about some things to do. He commented that 2:00 a.m. to 3:00 a.m. for 6-7 nights is a little bit ridiculous. He passed streets at 8:00 p.m. on the 4th of July that were barricaded off, which he appreciated, but you couldn't even see the street from all the fireworks on it. If you do that, clean the street up, help us out here. The 6-7 nights in a row is out of line and aggravating, he agrees with the people who called him and the city will try and do something to prevent that in the future. Like Mr. Meidinger said, he does not know what we can do unless we can catch them in the act but we are going to tighten it up.

PRESENTATIONS

Chief Jay Reyes, Derby Police Department made a Citizen Service Medal Award presentation.

Lt. Tim Brant read the citation. On June 22nd, 2007 Mr. Waple made a telephone call to the Derby Police Department to report suspicious activity at a neighbor's residence. Mr. Waple is very familiar with the people who live at this residence and knew no one was home. Mr. Waple reported seeing a man and a woman get out of a car and go into the backyard. When he did not see the two return to their vehicle he became suspicious and called the police. Derby police officers were dispatched to the residence to investigate. When the call was broadcast the other officers recognized the address as a home that had been burglarized before. When the officers arrived Mr. Waple reported that the man and woman had not come out of the backyard and he suspected they were still in the residence. Mr. Waple then provided a key to the residence given to him by the homeowner in case of an emergency. While officers began a search of the house Mr. Waple joined other officers assigned to observe the perimeter of the residence. During the course of the search the two subjects that had been inside of the house came out a second story window, the female fled one direction and the male fled another direction. The female was quickly caught by officers, the male was pursued by Mr. Waple and himself. Mr. Waple caught the individual as he was going over a fence and held him in a canal area behind the residence and was taken into custody. His actions signified a substantial risk to himself and he put himself in a position where he could have been seriously injured. He put that risk aside and came to help the officers, and for that we want to acknowledge what he did. Mr. Waple is a retired Derby police officer and that signifies something else to us that someone who has put in so much service to the city did not hesitate to get involved again.

Mr. Waple accepted the award.

REQUEST TO VACATE A UTILITY EASEMENT

Don Losew, Derby City Planner presented the staff report.

Background:

- This vacation request involves a platted utility easement along the common lot line of Lots 21 and 22, Block A of the Oaks 2nd Addition (2232 & 2300 Sawgrass Circle).
- Neither the City nor other utilities have any facilities within the easement nor are any planned.
- The applicants requested this vacation to remove any encumbrances on their lots that would otherwise be created by a utility easement.
- A north-south easement, 10 feet wide is located along the eastern end of the easement requested for vacation, and the legal description excludes that area of overlapping easement.
- On June 7, 2007, the Planning Commission recommended approval of the vacation by a vote of 8 to 0.
- Vacation cases are a public hearing item before the City Council, and as such a notice has been published as required.

Financial Considerations:

- The cost associated with mailing notices to adjacent property owners, publishing the Notice of Public Hearing, and recording the Vacation Order are covered by the filing fee for this case.

Legal Considerations:

- As required by the Subdivision Regulation, the Planning Commission has reviewed and acted on this vacation request. Also, as required by State Law, this vacation request has been advertised in the official city newspaper two weeks prior to the July 10, 2007 City Council meeting. The City Clerk has not received protest petitions. This is a public hearing item before the Council and after hearing from the public such hearing may be closed and the Council then act on the request as it deems appropriate by majority vote.

Mayor Avello opened the public hearing at 7:30 p.m. With no one present to speak he closed the public hearing.

MOTION: Warren moved to approve the request to vacate the utility easement and instruct Staff to record the Vacation Order. Meidinger seconded.

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

**FINAL PLAT OF THE
TALL TREE ADDITION**

Don Losew, Derby City Planner presented the staff report.

Background:

- On April 19, 2007, the Planning Commission by a vote of 7 to 0 approved a Final Plat for this application area. A zone change to “R-3”, Multi-family zoning has been approved for a portion of this site subject to platting. The development of this site, both by its proximity and ownership, has been tied to the proposed development associated with the Derby Market Place and Derby Downs Additions. During early discussions concerning the proposed commercial zoning for the Derby Market Place site but also more recent comments by some City Council members, the issue was raised as to if and how these commercial areas could or would be integrated with the Tall Tree residential areas and even the Amber Ridge subdivision.

Development such as the Bradley Fair site in Wichita was cited as an example as to what could be provided for this development. During review of a site plan for a proposed Target Store in the Derby Market Place Addition and again during Staff’s review of this plat that issue was raised, but the applicant has now indicated that there was no interest in trying to integrate these areas. Rather, plans call for the commercial areas and residential areas to be separated or screened in a basically conventional manner.

As noted in the section on Policy Considerations, another issue with this plat is the applicant’s request to provide a collector street with a right-of-way standard different from presently called for by Derby’s Subdivision regulations. Specifically, the applicant is requesting a right-of-way width of 70 feet versus the 80-foot requirement under Subdivision Regulations. Both the Planning Commission and Staff have supported this request.

Financial Considerations:

- The applicant has submitted petitions and a Certificate of Petitions for the required improvements needed for this site's development. These petitions include 2 phases each of sanitary sewer, water, storm sewer and paving improvements plus a sanitary sewer pump station, all of which total \$2,382,000. Of that amount, the City-at-Large will pay \$126,872 for oversizing of the collector street.

Legal Considerations:

- Pursuant to State Law and the City's Subdivision Regulations, the Planning Commission has approved this plat.

Policy Considerations:

- This plat is proposing a collector street with a right-of-way of only 70 feet as compared to present Subdivision Regulation requirements of 80 feet of right-of-way. Given that this is a required improvement, the City Council must waive this improvement standard. It should be noted that the actual width of pavement (41 feet from back of curb to back of curb) would be the same in either case. Both City Engineering and the Planning Commission have supported the request for the 70-foot collector street right-of-way.
- Upon approval of the petitions, City Staff will submit them to Gilmore-Bell for preparation of the required resolutions which the Council will consider in the very near future.
- The applicant has complied with all requirements of the Subdivision Regulations, including the provision of a Developer's Agreement and Restrictive Covenant for the ownership and maintenance of Reserves.
- The Planning Commission approved this plat on April 19, 2007.

DISCUSSION:

Council Member Craig asked about the north part of the subject area, where Tall Tree takes a right hand turn and goes down into the platted area, what is our option on the north side, such as if a development would happen to the north of the platted area for access there. Are we going to be able to build a road to the east? Anything that develops to the north or northeast of there, would it be possible in the future if something develops there to continue it all the way to the east? He sees this as a dead end, it is just a loop that goes around and dumps into Amber Ridge.

Mr. Losew explained that the engineering staff looked at this area and it is the intention and belief that we did set up a situation, where the reserves currently exist, that the city could remove those reserves and continue what would potentially be a collector street up into that area. The truth is, this is a very difficult area to be sure how a street will eventually go into that area; but nonetheless, the expectation was the possibility of connecting. We had a discussion of doing a round a bout to make it more attractive and to handle the possibility of a future street connection.

Council Member Craig asked about the possible access to the area of the apartments, is there a plan for that also?

Mr. Losew advised there are two points of access, by way of Tall Tree or the southern connection through Amber Ridge which does have a collector street in that same position, those will be the two points of access in and out of that area.

Council Member Johnson asked if changing that street to a through street would put us in a position to where the city would pay for the middle 20-feet.

Mr. Losew advised that was correct, the city would pay for the additional 10-feet of paving beyond a typical residential street. With the 70-foot right-of-way we will be requiring 41-feet back of curb to back of curb.

Council Member Johnson stated that when he thinks of a through street he thinks of James, Madison, Meadowlark, Woodlawn, he does not see this as a through street, therefore he would be opposed to the city paying part of widening the street.

Mr. Losew advised that the straight, through streets are not something you find in new additions. You do have certain streets that can still be put in fairly straight, James for example. Even as James goes east it's going to start doing some different things because of the physical necessity out there. What we are looking at on a collector in this case is not so much being a through street as being a street that does carry more traffic than you expect with a local residential that is why we get into the area of a wider street. In many cases, a lot of design now, even with a street that would carry a lot of traffic goes into the "traffic calming" concept where because of the curves and other features of the street the idea is to put in the more restrictive streets that keeps traffic at a slower pace. He cannot say that that is necessarily why this is happening the way it is, but that will have that effect. It is still a fairly heavy traffic street given the number of lots on it, the apartments; we do see it as being a collector street as indicated in our comprehensive plan, although it is obviously not a very straight shot. He advised in some ways that is good, it slows down traffic.

Council Member Johnson stated he sees that as the responsibility of the developer.

Mr. Losew explained that is the policy the city has on collector streets.

Council Member Johnson commented we should not call this a collector street; it is a wide street in a development. He asked if there would be access through Reserve B, or would it have to go through Lot 1.

Mr. Losew explained the access would be through Lot 1; it would not go through the reserve. The reserve has been platted for detention purposes, both of the reserve areas are showing ponds for detention of storm water. A fair amount of the storm water detention is coming off of the Derby Marketplace Addition into the northwest reserve area.

Council Member Johnson asked who would have the responsibility to maintain that.

Mr. Losew advised it will be maintained by the homeowners association. It will be to some degree an amenity for them. We were looking at the possibility of pedestrian access coming through the reserve and having access to the shopping area.

Council Member Bannon agreed with Mr. Johnson. The only collector this is for the approximately 77 lots in the apartments. As far as she is concerned this is a Sub-division Street

and what we are doing is asking the rest of the city to pay for a sub-division street. This would be like asking the rest of the city to pay for one of the streets in Ashborough that is not a collector and not through, this doesn't go through anywhere, it is a horseshoe that services 77 homes and the apartments. She too has a difficult time calling this a collector street or aligning the city to where we have to pay for that. She asked what the price of the homes were going to be in this area.

No one was able to provide an answer to that question.

Council Member Bannon commended everyone, she likes the 80-foot lots, it is nice to see that. It at least provides room for 3-car garages and wider homes; it is nice to see that move. Her big concern on this is the way in and way out, this subdivision is $\frac{1}{4}$ mile farther north than 71st, so you go that far to get into the south end of this subdivision and you are probably a good $\frac{1}{4}$ of a mile off of Rock Road. She asked if we had any concerns from a fire or police department standpoint, it is a long way to go to get in there.

Mr. Losew stated that the fact we have the Derby Marketplace has more or less forced this situation to be as it is.

Council Member Bannon advised she understood what was forcing it, she is just wondering if we have any concerns about it being so far back in there from a fire or police standpoint, this is a fairly isolated area.

Mr. Losew explained we do provide the fire chief a copy of the plat to comment on anything that he finds concerning. He has not received any comments.

Council Member Bannon advised she is not willing to see the city pay for what is being called a collector street. All you are collecting is what is inside that particular subdivision and she has real concerns about making this a large horseshoe back there. There may not be any better solution than the long horseshoe.

Mr. Losew pointed out that part of the collector system starts with the Amber Ridge Addition, that was also put in as a collector. Whether or not a straighter shot would have been possible or better he does not know.

Council Member Bannon advised that what we are doing is making the same situation on that piece just to the north. When and if that piece ever sells you have that one entrance access off of Rock Road but you don't have anything to tie it to coming into this subdivision, is that correct?

Mr. Losew explained there is the option of taking the reserves out and putting a street in.

Council Member Bannon pointed out there will still not be a through street, you will come in off of Rock Road and either go north or south. The rest of our city is laid out fairly well on grid patterns; we are getting away from that dramatically up here.

Mr. Losew stated there are many plats where the grid pattern was not followed.

Council Member Bannon advised we don't have any other horseshoes like this.

Mr. Losew advised the difficulty is, this is a very unusual area and one of our concerns is having a landlocked piece of property. The exact control or what is going to happen is not necessarily in our hands, it is pretty much in the landowner's hands as to what they do with this property and how they decide to plat it. The best that we can do is anticipate, we may need another street coming out, and we did say, and are expecting it to be a collector. Our comprehensive plan does show very generalized collectors through every square mile more or less. This was the best we had for a north/south continuation through here.

Council Member Bannon advised she does not see a connector of any type between this subdivision and the piece to the east.

Mr. Losew advised that was the indication that it could be and would be dedicated for a public street connection.

Council Member Bannon pointed out it has drainage and utility, is it also being used for a drainage easement?

Mr. Losew explained staff did try and look at the possibility of getting one street connection, even bringing in that street and what might possibly be a cul-de-sac.

Council Member Bannon stated she has real problems with land locking a piece of property, in the State of Kansas there are issues against that.

Mr. Losew advised Ms. Bannon could talk to the applicant's agent and find out why they didn't want to do what staff was asking.

Council Member Bannon stated she would like to see some changes to this; she is not comfortable with it. She would like to see the subdivision progress and she does not want to stand in the way of progress, but she has some real issues with the way it stands.

Council Member Warren asked about Reserve A at the north end, is there enough land there for a roundabout?

Charlie Brown, Director of Community Development stated that the area Mr. Warren is referring to has existing right-of-way and has a reserve that provides additional right-of-way. If and when development occurs to the north, some additional right-of-way may in fact be required from that new plat. At that time we would have sufficient right-of-way to build that roundabout. He pointed out that our normal plan is to have these collector streets at about the ½ mile mark, which is good in theory, but in some cases due to topography and creeks, etc., it is difficult to achieve. He pointed out the St. Mary's Addition and several surrounding lakes, making the collector street at the ½ mile mark difficult if not impossible because of the topography and the lakes. Their plan that was discussed during the platting process with the planning commission is to, at this point; build a road that would go to the north, around the lake and on east. We would

have another east/west type of Collector Street, generally on the ½ mile line, but not exactly on it in order to get around the lake. On the collector street, Tall Tree Road is a collector street through the golf course. At Rock Road there will be a traffic signal, there will be commercial development in the area so they have extended the collector street from The Oaks straight across Rock Road at the ½ mile line, brought it through the sub-division, hooked into an existing collector street at Amber Ridge, with the plan of the collector going up and around the lake and head to the east. The 70-foot of right-of-way is something that staff is willing to go from the 80-foot to the 70-foot as long as we have the same paving width within the right-of-way. Wichita uses a 66-foot right-of-way with a 37-foot pavement section, that is their design for a collector street. Our original standard is 80-foot right-of-way with 41 feet pavement. Our public improvement finance policy calls for the city to pay for the extra 10-feet going from a normal 31-foot pavement, which is our standard for residential streets, up to the collector standard, with the extra 10-feet being paid for by the city at large. In our opinion this is still a collector street, it is not at the ½ mile, it is not a through street, it is a collector street, which is gathering a lot of traffic from the residential areas and getting it out to the arterial streets; Meadowlark and Rock Road.

Council Member Warren asked about the extra 10-feet that we requested the developer put into this, we did that because we consider this a collector street, correct?

Mr. Brown advised that was correct.

Council Member Warren asked if we didn't require that, would a 31 ft. street be sufficient to handle the residential traffic in this area? That is really the bottom line, if this street is made wider because of the number of homes in that area and we need it because of that then we shouldn't be paying for that extra, if on the other hand we are requiring the extra 10-feet because we are anticipating this area taking extra traffic from the community then we should be paying for it.

Mr. Brown advised it will be a collector standard as development occurs to the north and around. He pointed out the reserve (he indicated a location on the plat) is dedicated as a contingent street dedication, we have a piece of land to the east that is owned by the Knights of Columbus that is not landlocked, but is surrounded by flood plain so there is some additional developable land to the east, we have a method for them to connect into this.

Council Member Warren advised his question had been answered. The possibility does exist that we will have traffic coming from the east into Tall Tree Circle.

Mr. Brown advised that was correct.

Council Member Warren stated that if we have that then the need for additional traffic requires, or would be good planning, to make that a collector street.

Mr. Brown agreed.

Council Member Craig agreed that if you come into the northwest entrance at Tall Tree, up until the point it starts the right hand turn, it is a collector street. If you go down to Amber Ridge

you will see that the far west, north/south is also a collector street that would bring it up to the entry point. Keep in mind that the point on the east side that could be a possible entrance from the east into this area is a long way down the road. What he is interested in is meeting the criteria of a collector street from other streets and he believes that would be met if they will understand that the area from the north, going from the north intersection of Tall Tree all the way to the south to Birchwood, if that was a continuous street that went through there it would meet the criteria of a collector street and the others fall into that category. The criteria is that the others will feed into those and now you have a collector street that goes all the way from Tall Tree, south through Birchwood, down through Amber Ridge, all the way down to 71st Street. The other streets should meet other criteria, but up until that point he can see us paying for the extra 10-feet, into the subdivision with one possible outlet, he does not see that as a collector street, those should be normal neighborhood streets.

Mr. Brown advised that if a person living in Amber Ridge wants to go to the shopping area you will get quite a bit of traffic coming from that subdivision up to the shopping area. It is not just the new lots getting out; it is the Amber Ridge lots getting around the circuit over to the commercial area.

Council Member Craig stated that substantiates his point of trying to focus on a collector street further to the west that will relieve the traffic going through the neighborhoods trying to get to the shopping center. That would be a key to apartment versus a reserve on the west, making that a collector street. Now he thinks there is a valid reason for making that a wide street. But going through that neighborhood right now he doesn't see that, right now he is not in favor of moving on this as a council.

Council Member Meidinger agrees with the statements made as far as the collector street, but if you go to a 31' foot street he could see all kinds of problems with those curves. People will be parking on the curves and once you start parking in the street the visibility of pedestrians will be a major problem. He does not agree that we should be funneling collector street traffic through this residential area, he thinks it's a bad plan. If we are going to allow developer's to come into town they should be a little more flexible and look at the grid that we are trying to make. Someone made the comment that our grid pattern has gone haywire, look at north Woodlawn, Kay Street, James Street going to the east. He would think the safety people would be very concerned about how we are putting curves in all these streets and the more we can make a grid to get people in and out of the area we would be better off.

Mr. Brown advised that was a good point; there are some conflicting issues with that. The fire folks probably like a straight shot grid system to get to an emergency situation, however, normal day to day traffic, the straight streets create speeding situations and we have another issue to contend with because of that. Traffic calming is a buzzword in the industry now which designs curves in the street to slow the traffic down, which conflicts emergency personnel getting to an emergency in a short amount of time. There is a little bit of give and take that has to be done in order to meet both of those goals.

Ms. Sexton suggested a motion to table and bring this to the next meeting due to the number of issues brought up tonight.

Council Member Craig stated that if we table, some action should be taken in the meantime. Some work needs to be done to look at some other options instead of just bringing it back to rehash it over again.

Council Member Warren stated that we have to give the developer the opportunity to go back and make this a 31' wide street rather than a 41' if we are not going to consider this a collector street. If we are going to that then we basically have to eliminate the possibility of Reserve C becoming a street and bringing in additional traffic into this area, when you bring that traffic in it really does become a collector area. We are at the point right now where we need to decide if we want to leave that possibility that we will allow traffic into this subdivision from the east, in which case we have to think of this as a collector. If they come in at Tall Tree Circle, they may go left through Amber Ridge, they may go straight through Tall Tree, but you are adding additional traffic that does not benefit people in this subdivision, in which case we go back to our old policy of paying for the overage. If we are going to let them go back to a 31' wide street then we are saying this is not going to be a collector then we need to block off Reserve C and eliminate the possibility that that is going to come in to be a collector street. If we want to leave that open to the east where traffic can come in than we have to consider this a collector.

Mr. Brown advised another option is that the council may wish to leave that paving at 41', leaving it to a 70' standard and requiring the developer to pay the full cost of that wider street. Part of the motion tonight is to approve the petitions and the petition that has been submitted for that street includes the center 10' as a percentage to be paid for by the city at large.

Council Member Warren stated the problem he has with that is that we are requiring additional width to benefit the city at large, not the residents of this area. If we are going to require additional width that is going to benefit the city then we should be willing to pay our fair share. If the benefit is to the subdivision, then they should pay it that is the bottom line between our whole policy, he who benefits pays. If the benefit for a wider street is to the city at large, then the city should pay for that 10'. If the benefit is to the subdivision then they should pay for it, we shouldn't get away from that aspect of our policy, it is a good policy.

Mr. Brown stated he did not disagree with that, he just wanted to point out another option that you may want to consider.

Council Member Bannon stated that right now, given what she is looking at, she is not sure that she see's that any of the rest of the city is going to see it. As far as she is concerned there is a piece here, that for her piece of mind before she can make a good decision she would like to see a topography map. She asked if limited development to the east means five houses or 60 houses, because there is a flood plain situation there, so whenever you say limited and that is the only people that might use Reserve C, that kind of factors into it.

Mr. Brown advised we don't know in the future what that will be. The council has already approved multi-family in this particular area. Who is to say that the owner might come in for

some senior housing or apartments that would generate additional traffic? We can't limit ourselves just to single family necessarily. It is not a huge area to the east but we don't know what the future land use of that would be.

Council Member Bannon stated she did not feel like she has enough information to make a decision one way or another. She asked that the developer or city staff explain if there is a reason why they don't want to do the west side with more of a straight through collector street.

MOTION: Bannon moved to table. Schwarz seconded.

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

EXECUTIVE SESSION:

MOTION: Schwarz moved to recess to executive session at 8:17 p.m. for 30 minutes to consider matters privileged in the attorney client relationship. Seconded by Bannon.

The council returned at 8:50 p.m. and Mr. Schwarz announced there was no binding action taken.

Council recessed from 8:50 p.m. to 8:55 p.m.

BIDS FOR ROCK ROAD IMPROVEMENTS

Dan Squires, City Engineer presented the staff report.

Background:

- A bid opening for the construction of Rock Road Improvements (James Street to Patriot Avenue) was conducted on Tuesday, July 3, 2007 at 2:00 p.m.
- A solicitation for bids was 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:

Lafarge North America	\$3,934,941.00
APAC – Kansas, Inc.	\$3,913,916.74
Cornejo & Sons, Inc.	\$3,617,840.04
Engineer's Estimate	\$4,486,970.00

Financial Considerations:

- Costs for the improvements will be paid partially by the City-at-Large and partially by the special assessment to the adjacent properties. The City-at-Large portion of the project is \$2,828,923.79 (78.19%) the remaining \$788,916.25 (21.81%) will be paid through special assessments.
- The revised 2007 budget includes funds for the construction of the project.

- Special Assessments for various turning lanes, signals and sidewalks will be spread against the benefit district properties over a 15-year period.

Legal Considerations:

- The City followed all applicable procedures in soliciting and evaluating bids for the project.

Policy Considerations:

- Cornejo & Sons, Inc. 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.

MOTION: Warren moved to approve the bid of Cornejo & Sons, Inc. in the total amount of \$3,617,840.04 for the construction of Rock Road Improvements (James Street to Patriot Avenue). Johnson seconded.

DISCUSSION:

Council Member Craig asked if there were going to be sidewalks on both sides of the street.

Mr. Squires advised there will be a bike path on the west side. He anticipates sidewalks will go in with commercial development on the other side.

Council Member Craig asked if the benefit district includes some private residences on down the road, will there be any specials attached to some of those folks that live on the east side of Rock Road.

Mr. Squires advised he did not know the answer to that question. There is limited amount of residential on the east side of Rock Road.

Council Member Craig agreed, but stated that there are some that have property that runs right up to the road.

Mr. Squires stated he does not believe they will be assessed. We don't have petitions from them; we have petitions from commercial development, Derby Marketplace, Derby Downs, for signals, turn lanes, that sort of things.

Council Member Meidinger asked when construction will start and how long will it take.

Mr. Squires stated they are anticipating that they will start in mid August. We have given them hard dates for substantial and final completion. Substantial completion will be July 18th and final completion of August 15th of 2008.

Council Member Craig asked who will be the determining entity that will determine substantial completion.

Mr. Squires advised staff will. Substantial completion means that the project is ready for its intended use and they open it up to traffic.

Council Member Craig asked if we had control of that as a city.

Mr. Squires advised we do.

Council Member Meidinger asked if Rock Road will be completely shut down.

Mr. Squires explained that the west half of Rock Road will be constructed first with traffic on the existing two lanes on the east and then they will shift sides and have three lanes for the second phase for traffic on Rock Road.

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

2008 MANAGER'S RECOMMENDED BUDGET & CIP

Kathy Sexton, City Manager presented the budget.

Background:

- Each year, the City Manager recommends and the Derby City Council approves a budget for providing essential services to residents. This budget document is a plan; it is the framework for how the City will allocate its resources to assure continuing excellence in the community's quality of life.
- The enclosed budget for fiscal year 2008 has been developed by city staff with input from the governing body as informed by the public. It includes departmental operating budgets, and the updated five-year Capital Improvement Plan (CIP).
- The budget also provides for staffing, tools, and other resources that continue to enhance quality of life for Derby residents through the quality of services offered by the City. The City is doing so without raising the mill levy in 2008, the fourth year in a row that we have maintained a constant mill levy.
- The Council heard about departmental budget and CIP requests at a workshop on June 5.
- On July 24, the Council will be asked to authorize publication of the budget in anticipation of budget adoption on August 14.

Financial Considerations:

- The proposed 2008 budget totals \$25,135,164, which is an increase of \$2,359,115 (10.36%) from the revised 2007 expenditures of \$22,776,049. The increase is primarily attributed to capital improvements and personnel.
- The City's mill levy is projected to remain steady at 48.176.

Legal Considerations:

- It is the City Manager's responsibility to present an annual budget that not only meets the needs of the city but also complies with state laws governing municipal budgeting.

Policy Considerations:

- The budget and CIP comprise the primary policy document of the city. It is updated annually to meet current needs of the community.

The council asked questions during the presentation and those were answered during the discussion. Those questions are as follows:

Assistant City Manager Position:

Council Member Warren asked if the Assistant City Manager position would be something that would be akin to a department head position.

Ms. Sexton stated it is a model that is first among equals. Assistant city manager is the next in line; if the city manager is gone the assistant manager will be in charge. On the organizational chart, the department heads do not report to an assistant city manager, that would be like a deputy city manager and that creates another layer in the organizational chart and we are not

about creating layers around here. That person would have some departments or divisions report to them so this person would be on the same level as department heads in the organization, but to be very clear to the public and the council, if the city manager is out of town the assistant manager is in charge.

Council Member Craig commented that obviously creating this position is a move in the right direction to move forward, but in the text it indicates to try this arrangement for a year, possibly engaging contractual assistance on specific projects when needed. Therefore he is interpreting that as when we move from an “assistant to” to an “assistant city manager” there will be some projects that won’t get done because that person is doing something different. What do we anticipate as far as contracting out? He can see now that the cost of \$21,000 plus could be much more than that if we go to contract other tasks that need to be done.

Ms. Sexton responded that is a common question she has received, the “assistant to” does a lot of work now and who is going to do that. That will be difficult in terms of figuring out how much of what the “assistant to” currently does will she keep doing and how much will somebody else do, and how much would be something that could be a definable project that could easily be contracted with someone else to do. What she did this year on one project is researching code enforcement laws, ordinances in other cities, etc., she happened to know someone who was between jobs as a city manager and for less than \$1,000 he took time to do that and gave us a report that really moved our project along. She can see doing that on various things like that. We don’t have the money in this to do that, but there is a standing line in the city manager’s budget of \$5,000 to do contractual things like that. There is a little flexibility to try that the first year, but she does think we might be looking at whether or not next year would be the time to add an intern who would be cheaper than an “assistant to”, but would be a person who could pick up the slack and do a lot of the research and projects.

Council Member Craig advised you have to have some budget authority someplace to be able to cover those emergent projects you might have to hand off to someone.

Additional Finance Staff:

Council Member Bannon clarified regarding the additional finance staff member, this is not a true accountant, as in CPA that we all assume is an accountant. She does not want the public to think that is what we are getting for \$50,000, what you are talking about is an account person.

Ms. Sexton advised that was correct, someone with accounting abilities, a bachelor’s degree, but not a CPA.

Emergency Warning Sirens:

Council Member Craig asked where the nearest siren is located to the one that is being placed at Patriot and Rock Road.

Captain Chambers advised it was located at 71st and Rock Road.

Ms. Sexton explained this one should cover all the new growth area to the north and east.

Council Member Meidinger left the meeting at 10:02 p.m.

Increased Fire Department Staff:

Council Member Johnson asked how it was possible that \$435,830 equals 2.6 mills, last year a mill raised \$136,000, so 2 mils would be \$270,000, that is not close.

Ms. Sexton agreed, that is what the city council decided to do. They decided to take that proposal, but not raise the mill levy the full amount.

Council Member Johnson stated that we probably told the people that it was going to cost them 2.6 mills and it really cost them 4 mills.

Ms. Sexton advised she has reviewed all of the minutes from each meeting the city council talked about this, they knew what they were doing in saying they want a fire department, but we are not going to put the full burden of that cost in a new tax, instead they were going to pay the difference between that 4 mills versus 2.6 mills by getting that money out of current growth, the levy was only increased by 2.6 mills.

Council Member Johnson clarified that it really didn't cost us very much because we took money from another part of our budget.

Council Member Craig stated it is his understanding that EMS is contracted through Sedgwick County full time and asked what cost there is to us for that service.

Ms. Sexton did not have those numbers; she will have to get them. It is not a cost in our budget; it is a contract that we provide basic life support.

Council Member Craig asked how much we were paying.

Ms. Sexton explained it is not a contract like that. You are paying through your county taxes for EMS service. We don't have a contract, like a fee for service thing, we have a contract that says we will provide basic life support through a fire department, they provide advanced life support through EMS.

Council Member Craig stated he is looking for an alternative way of meeting that because most of those are medical responses and not fire responses.

Ms. Sexton advised that is a really good point, EMS costs more and is paid by the tax payers just like fire is paid by the taxpayers. EMS costs more, these people have advanced training, can deliver drugs, they are on the phone with the hospital enroute delivering drugs and doing different things at the Dr.'s orders and it costs more to do that. It is to the taxpayers benefit to have basic life support which typically is very adequate. Usually fire can get there first; they can do the basic things, secure the patient, figure out what is going on and relay that information to EMS. It is a useful service to have two crews on the scene. Some people question if it is necessary to have fire and EMS on a scene and sometimes it is.

Council Member Craig suggested an option of putting EMS at Fire Station 1.

Council Member Warren asked if the city has the right to buy up to 10% of the land of a new development at the developers cost for certain uses, such as parks and schools.

Mr. Brown advised that was in our Subdivision Regulations. He is not sure if it is 10%, but we do have the right to negotiate with a developer for public use property.

Council Member Warren pointed out we could use that if we decided we needed a fire station, we could go in and buy at whatever the developer's cost is at that point.

Mayor Avello asked if we knew when the county is going to move out of 63rd Street.

Ms. Sexton advised that we have been in contact with the county and they are planning on moving it in 2009.

Mayor Avello asked if it was feasible for us to work out of that building.

Ms. Sexton explained that doesn't really help us much since it is further away from the city. Station 2 is in a really good spot on Rock Road so it probably won't give us a lot of benefit to use their building and they plan to sell the land anyway.

Council Member Bannon commented that she stands by the decision made to go with the Derby Fire Department back when they made it and given the choice today she would make the same decision. She asked if we approve the 4 and wait to see if we get the grant, then we don't get the grant, would we go ahead and hire the 4 or would the council get approval again before they were hired.

Ms. Sexton advised the council can do it however they want. The money has been included in the budget and if you approve the budget as it is now you would be authorizing that to be done. If you would rather we bring it back to a council meeting for a vote we can do that, either way the council will be advised if we get the grant.

Council Member Bannon stated that as far as the rescue apparatus, the way it is currently written it looks like the city pays \$20,000, however we don't know for sure if we have gotten that grant, correct?

Ms. Sexton advised we don't know. We have applied for the grant but we don't have an ETA on that response.

Council Member Bannon pointed out \$200,000 has been budgeted.

Ms. Sexton stated that \$180,000 of it is grant money.

Council Member Bannon advised that is what she means, since we don't know if we have the grant, are you saying you need to put \$200,000 in the budget in case you don't get it because you are buying it either way, or you are only buying it if you get the grant.

Ms. Sexton explained we are only buying it if we get the grant.

Public Works and Parks

Council Member Warren asked about the excavator mounted jaw crusher, how long has this kind of equipment been around? It looks like a great tool, but it also looks like something that could be down maintenance wise.

Robert Mendoza, Director of Public Works and Parks explained it has been around for quite a long time. This is a hydraulic based grinding system with grinding heads. It is just like our milling machines we have for our skid loaders and small bobcats, yet we can grind it down to a uniform size and that is really our goal, to recycle. It can be down, but right now we would use it on asphalt millings but it will also work on concrete and other things based on size. Our use will determine the life span.

Council Member Johnson asked if we have to buy that \$250,000 machine it is attached to also.

Robert Mendoza advised it is a \$400,000 machine it is attached to and we already own that.

Staffing Plan

Council Member Bannon asked who the person is that is added in Community Development for 2008.

Ms. Sexton advised that in midyear 2007 we moved some people around and there is now a GIS person in Community Development. A couple of these changes are based on moving some people around.

DISCUSSION FOLLOWING CONCLUSION OF Ms. SEXTON'S PRESENTATION:

Council Member Craig asked about the change in salary for the proposed network administrator, are we sure we can get the right person for that amount of money.

Ms. Sexton believes they can.

Council Member Craig commended Ms. Sexton on the 1.5 hrs. spent going over the budget. He addressed the time table and advised he does not agree with it. He stated that based on the publication requirements for the Informer it would make the hearing date the same night as the approval date and he disagrees with that. He suggested authorizing tonight posting of the hearing so that we can hold the hearing on July 31 or August 7th in order to give the public a chance to review the budget and make their comments. If there are any opinions that changes something you have to do it instead of doing it on the night of approval. That removes the barrier that says the public didn't get a fair chance to express any opinion. He knows this could be very slim attendance but you can't tell and he doesn't want that to raise its head again because it has happened before.

Ms. Sexton clarified that Mr. Craig was suggesting that at the July 24th meeting we have an item on the budget for a public hearing for input on the budget.

Council Member Craig stated that in order to meet the criteria of the days it takes to publish, if we authorize the publication of the notice tonight then it will actually come out next Wednesday and give us plenty of time to have a public hearing before the meeting on the 14th of August. We cannot approve this budget at the 2nd meeting in August because it is 3 days after the deadline date.

Ms. Sexton advised there are two ways to look at it; if you want to have a public hearing and a time for people to have input you could do that on July 24th, which would have normally been part of the meeting.

Council Member Craig pointed out you can't do that; you can't meet the 10-day requirement.

Ms. Sexton advised it could not be the "official" public hearing; you would still have the official one on August 14th.

Council Member Craig stated he is asking for an official hearing to occur on the 31st of July or the 7th of August.

Mayor Avello asked who our official publication was

Ms. Sexton responded it was the Informer.

Council Member Craig pointed out you can't let it go tonight to be in tomorrow's paper because tomorrow's paper is already out. If you let something out from the council on the 24th, it

will not come out in the Informer until the 1st of August. Then you have to have 10 days after that notice comes out before you can actually have an official hearing. That forces us to have the official hearing the evening we are going to approve the budget, which in all essence there is nothing that is going to change. He likes the recommended budget, however he does not agree with some of the content and believes it needs to be scrubbed and thinks there are some places where we can get more bang for our buck and he is sure each person on this council will have some input after tonight. He is not sold on the fire department additions at this time and thinks we need to look at some different strategies. He is concerned about the debt ratio we might have in 2008 with the large amount of projects we are going to be involved in. We are right now at 22 ¼ percent and questions what kind of debt ratio we are going to be at during the 2008-2009 time frame.

Jean Epperson, Director of Finance explained that at this time of year the ratio jumps up to about 22% and then in December when we pay almost \$5 million in principal the ratio drops down to below 21%. What we looked at is what our available balance was to stay within the 30%. She has not done the calculations to see what the ratio would be.

Council Member Craig advised his concern is that if we do everything in 2008 that we advertise we are going to do it will be a very big year.

Mrs. Epperson reminded Mr. Craig to keep in mind that the sanitary sewer projects do not count against that ratio. Really what we would be looking at would be the streets and facilities financings that were included in that chart.

Council Member Craig asked if the library would be on that.

Mrs. Epperson advised the library would be on there, but the thought is that the aquatic park bonds would be defeased so it is really an offset to one another.

Council Member Craig stated that \$24 million if everything went through is a big chunk of money.

Ms. Sexton stated they could take another look at that with the things that don't apply and see what the peak ratio would be and bring that to the next meeting.

Council Member Craig commented that he is in favor of the training captain for the fire department. There is one that would have to be replaced. He saw buried in the budget a specific vehicle for the training captain and he is not sure if we wouldn't be better off paying them mileage for awhile instead of getting another vehicle.

Ms. Sexton pointed out that was not buried in the budget, it was approved by the council for 2007 last year and we didn't get the grant therefore we didn't hire the position. She left it in the 2007 budget thinking that if this budget gets approved with that training captain in August by this body that we would go ahead and put the truck on order in 2007. That is why it was kept in the 2007 budget rather than moving it to the 2008 budget.

Council Member Craig again thanked Ms. Sexton and the staff for an excellent job.

Council Member Bannon agrees with Mr. Craig in terms of the public hearing, but looking at the time table, after July 24th there are essentially no changes that will be done to the budget after that point because that is when we authorize publication of "the budget". She suggested making an agenda item and publish a notice for the next meeting for an "unofficial" public hearing. The papers she is sure would also help us in getting the word out.

Council Member Craig advised the idea is to make it an information rich environment and get more input from our constituents than we have in the past. He knows there is a lot of gnashing of teeth that goes on afterward, but let's get it out there in front and get it done before that.

Council Member Bannon agrees, but does not think we need to call it an "official" hearing versus just putting it on the agenda.

Council Member Craig advised however we want to do it is fine with him, he just wants to make sure the public has a fair amount of time to come before the council and at least give us their ideas on this particular budget.

Council Member Bannon agreed. She asked about the \$2.2 million in the miscellaneous cash reserve, line item #8300, where does that go now.

Mrs. Epperson explained that in years past we would have referred to that as our contingency. What that is basically the base for the carryover at the end of 2008 going into 2009. By state law we have to submit a balanced budget but you also want to look ahead and keep a threshold of your carryover going into the following year and basically not spend all of your money.

Council Member Bannon thanked staff. In order to make a book like this takes a lot of hours and the presentation this evening actually answered a lot of questions she had. She too is uncomfortable with some items. If we could make fire to where we apply for the grant, do Capt. Pater now, but make it to where it comes back to the council for a vote on the remainder if we do not get the grant because she is not going to stand here tonight, after looking at the new information, she is not ready to say yes or no to that tonight. She would rather put that out a little bit and look again at the increase of calls at Westview Manor. That would put us a few more months out before we have to make a decision and as she understands it we wouldn't be stopping any progress. Either way you were going to wait on the announcement of the grant, correct?

Ms. Sexton advised that was correct. We are applying for the grant for all four. If you are in agreement that you want the training captain we could hire the one. If we are all in agreement on that she would go ahead and order the vehicle for the training captain and we could go ahead and start the hiring process for the one position.

Council Member Bannon asked if there were any of the trade in vehicles, or is this an actual fire apparatus.

Ms. Sexton explained it is an actual fire apparatus. It is a \$30,000 pickup.

Council Member Bannon asked if it was a regular pickup and if there were a trade in vehicle we could use for that instead on our replacement vehicles.

Ms. Sexton advised it will have light bars and radios; it is a \$30,000 budgeted item.

Council Member Bannon stated that is where she stands as far as the fire department items. Regarding the public hearing she suggested putting something on the website and information in the papers to make sure the public is aware of the hearing.

Council Member Warren agreed with the aspect of the hearing. We want to hear what the citizens think. For those that are willing to take the time to download off of the website, go to the senior center or the library or city hall. Lets make sure we give that opportunity to be heard. He does not think we need to change our schedule, let's just make sure we have an opportunity for people to share with us. He also reminded the public that council member's e-mails and

phone numbers are online and they are open to hear comments from the public. Regarding the fire department, it is a quality of life issue. A city has three areas that are their fundamental responsibilities; those are to maintain our streets and infrastructure, police protection and fire protection. All the rest are just the fun stuff, our libraries, our parks, they are important and we should do them but we take care of our home base first and our home base is our fire department. We made a decision to go with a fire department, it was the right decision. He appreciates the review they had tonight because you look at what we get versus what we were going to get going with some of the others, it is just not the same. He asked if Sedgwick County would have been out checking our fireworks stands twice a day if we were under Sedgwick County control. Do you think that Sedgwick County or Wichita would have been out helping our businesses doing inspections to make sure they are safe, they wouldn't have been doing that. Would Wichita or Sedgwick County be helping our citizens with smoke detectors? We are getting so much more quality of life issues in having our own fire department that we can control more than if we would have let it go off to somebody else. Nobody liked the fact when we had to go to Wichita for water, how do you think we would feel if we had to depend on some other government to be dependant upon our fire safety. He is fully in support of the chief's request. He has talked with Ms. Sexton and said if we do this, don't come back next year, we didn't do it last year and we won't do it next year, let's get our three officers that we need and get them in place now, that is the right way to go with it. He also thanked Ms. Sexton and her staff for the process we have gone through, it becomes easier to understand every year and the process helps. Maybe he is a little smarter but he really thinks it is the way it was put together that really helps him and he really appreciates it.

Council Member Johnson asked how many books were sold for \$25.00.

Ms. Sexton advised just one, one person came in today and wanted one.

Council Member Johnson suggested that we give away the first 10, that way interested people, clubs, centers of influence, etc., it is only better for government if they get involved. After that maybe a nominal fee. If anybody is interested enough to go through this thing it should be given to them. Regarding the budget overview it has the 2007 budget as \$25,322,000, etc., and the revised amount was \$22,776,000, is that difference some things that were going to be bonded that we didn't buy; He does not think we ended up with \$3 million cash.

Ms. Sexton explained it is about \$2.5 million. When we budget we plan on more than we think we are going to need that year and that way when you revise the budget you bring it down to what you really need because then you have that \$2 million to carry forward for cash flow purposes and for looking better for the bonding agencies, that kind of thing.

Council Member Johnson asked if we actually spent \$3,000 less than was budgeted.

Ms. Sexton advised it was about \$2.5 million less than originally budgeted, yes.

Council Member Johnson asked what areas that was in.

Ms. Sexton explained that part of it was what Mrs. Bannon referred to a minute ago. We put that money in an expenditure line, but then the next year you see it moving over as the cash carried forward. It is not a specific expenditure it is more of a contingency.

Council Member Johnson sees that carry forward, but how do you know down to the dollar what the carry forward to 2008 will be.

Mrs. Epperson advised it is an estimate, we don't know what it is going to be at this point.

Council Member Johnson pointed out there is an exact amount in the budget.

Mrs. Epperson explained that the \$2.2 million that is in the contingency line is a little over 15% of your projected expenditures in that current year and it's a guideline the rating agencies like to see. In theory they like to see a 60-day carry forward, are you going to be able to meet your expenses for the first 60 days of the following year. What we have heard over the past few years is anywhere from 15-20% carryover. The other things they look at are how dependant are you on sales tax for example because that is a volatile revenue stream. We basically took \$16 million in expenditures and subtracted out, for example, the contingency and came close to the 15% number, which is the \$2.2 million.

Council Member Johnson stated that technically we collected \$2.5 million in our mill levy because that is our only flexible one, more than we needed to, is that correct.

Ms. Sexton explained that we get the valuation numbers from the clerk so it's actually our stable source on property taxes; we know what we are getting from that. But we have no idea what we are going to get in sales tax that is why we look at it every month.

Council Member Johnson advised the two numbers he is talking about here are actual numbers, they are not estimated numbers. The budget may have been estimated, but your estimate shouldn't change because that is your approved budget. What changed was the revision, it came in less, which means you spent less money than you had budgeted.

Ms. Sexton advised we planned to spend less in 2007 than what the council approved last August. That was intended last August as well in the sense of you put this chunk of \$2 million in a line and hope nothing happens. Think of it as a rainy day fund, that money would have been spent if we had an oil spill or a tornado or something like that, but we don't budget it like we are going to add police officers or something real because once you add it you can't take it back. We just put it in a contingency line and pray we don't have to spend it.

Council Member Johnson asked if something similar happened in 2006 and if so how much was it.

Mrs. Epperson advised it did but she does not remember the amount.

Council Member Johnson stated we should have \$4 million carried over in a reserve fund.

Ms. Sexton explained it does not add up, it carries forward and you use it in your next budget. It just continually rolls, it does not accumulate. That \$2 million is now in the 2008 budget.

Council Member Johnson is distressed that we have an 8% increase in taxes. That is exactly what it is, even though our mill levy stays the same and we will tell everyone that. What they probably won't know is that their assessed valuation increased 8%, therefore they are going to pay 8% more in taxes. He has always thought, and he has always been wrong because we are dealing with government, that a tax increase should be about what inflation is plus a growth in size in infrastructure, etc., if there is one. A city that doesn't grow should not have any; their cost should only increase by the amount of inflation. That never works which is why he is always unhappy with government. This council probably will approve this budget but he certainly won't. If the taxpayers approve it then he is sure they can expect more tax increases from us.

Council Member Craig advised the county is the one that helps us by increasing our appraised value. As suggestions come across from individual council members or the public over the next couple of weeks and you scrub it again, he hopes we would be able to see the margin created if we are able to get more value added for the taxpayers dollars that we will be able to take that margin and start to push that into an area of capital improvement fund or something like that. He thinks we can start to develop some types of surpluses that allow us to build some funds to relieve some other costs in the future instead of having to borrow the money all the time. He thinks we made some significant improvements about paying cash for some things over the past couple of years and that is very important to us. We have avoided some cost, even though small. We are on the right road because we have all different opinions up here and he appreciates the work done tonight.

Council Member Schwarz asked about the general obligation debt service chart, he assumes we are collecting revenues way in advance of the debt obligations we pay each year and that goes into some sort of reserve fund that collects interest, correct?

Mrs. Epperson explained it is in the bond and interest fund. There are two major payments a year which are basically a month after special assessments and property taxes are paid. We collect the first half in January and the way our debt payments are structured is that there is interest, half paid in June and the 2nd half in December, along with the principal. That money earns interest throughout the year and it is all in the bond and interest fund.

Council Member Schwarz asked if there were any way to carve out our excess reserve that we have built up, the amount that we are collecting interest on, is there anyway to represent that in some way as a reduction of that 22 ¼%. He assumes we have a few million dollars tucked away that is in excess of our payments on those bonds.

Council Member Bannon advised that would be like the money set aside for Rock River Rapids.

Council Member Schwarz agreed. We are collecting money in advance of our obligation that we pay every year.

Mrs. Epperson explained that it comes in in the same year it is paid out.

Council Member Schwarz asked about the sales tax revenue.

Mrs. Epperson advised that was in a separate fund, the sales tax revenue fund. That is earning interest.

Council Member Schwarz advised his question is, can the 22 ¼% be reduced by the amount in the sales tax reserve fund.

Mrs. Epperson advised the bonds are not callable until 2012 so that is something that we will be working on, is a defeasance plan. It is basically putting money in an escrow which would then be used to defease the bonds. It is a good point, what we will have to look at is if the library election passes, is the timing of the issuance of the temporary notes and the defeasance of the aquatic park bonds to ensure that we stay within our debt limit.

Council Member Schwarz pointed out right now our debt limit is not 22 ¼% because we could actually in theory reduce that by the amount in the sales tax reserve account, is that right?

Mrs. Epperson explained that percentage was pulled from the last official statement and that is a number that is represented to rating agencies, to bond buyers, etc., so that is why it was not changed. In theory what Mr. Schwarz is saying is accurate but it might be a misrepresentation if we were to alter that number. One of the things she and Ms. Sexton were kicking around is at what point we actually start the defeasance of the bonds and that is when we would come back to the council in the near future. Last year what we had said is that we would continue to monitor it and we want to do it as efficiently as possible. We will work with our financial advisor and bond council as to what point that would be.

Council Member Schwarz asked if the amount in our reserve funds was reported to the bonding agencies.

Mrs. Epperson advised that is in the audit.

MOTION: Warren moved to receive and file the manager's recommended budget.
Bannon seconded.

DISCUSSION:

Council Member Warren asked what Mr. Craig is expecting when he made the comment about the budget being "scrubbed".

Council Member Craig explained there will be input from the council over the next week or so pointing out things that they feel maybe should be looked at again or modified. The city manager has the authority to do that and when she comes back with our next presentation the numbers could change, that is all that meant. In most budget processes, we had an informal one, this is the manager's recommendation and now we can make suggestions to her and if she takes those she can make changes to it, if she doesn't, that is her prerogative as the city manager. He expects that courtesy that if he makes a suggestion that those are looked upon and reviewed, if she makes that change fine, if she doesn't that will be fine also and it will come down to whether the budget is approved or not.

Ms. Sexton added that the directors all just got their budgets yesterday as well and she is sure there are things in the budget that some of them are probably a little surprised at because we were looking real hard at the last minute last week to get everything to balance. We just found the one mistake yesterday and she encouraged all the directors to look through at least your own sections and your own CIP because we might have made some more mistakes. We were changing some things last week because of the storms, all that rain and the storm water sewer problems we were having, there could be "technical" changes.

Council Member Craig advised he only had 48 hours to look at his budget because he was gone when it was delivered. It could be another cycle that this goes through and it won't be a council cycle but it could be an individual cycle. He thinks Ms. Sexton is probably expecting some phone calls and maybe from her own directors.

Council Member Warren stated he wanted to make sure they were on the same page and appreciated Mr. Craig's comments.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 7 yea, 0 nay, 2 absent, motion carried.

The council recessed from 11:05 p.m. to 11:15 p.m.

REVISION OF FIRE ORDINANCE

Brad Smith, Fire Chief presented the staff report.

Background:

- Derby Municipal Code Title 2, Article 8 established the legal basis for the Derby Volunteer Fire Department. These ordinances concerning the fire department were last revised in 1996. Several changes in the fire department have occurred since December 2004.
- Derby Municipal Code Title 2, Article 9 established the Emergency Medical Services Department. An agreement signed in March 2005 turned the operation of Derby Volunteer EMS Department over to Sedgwick County Emergency Medical Services. Article 9 needs to be deleted from the code book.

Financial Considerations:

- The current City Code provides for \$2.25 to be paid to Derby Volunteer Fire, Inc., a non-profit organization, for each volunteer firefighter called out for emergencies and attendance at duly-called training meetings. \$7,500 is budgeted yearly for this expense.
- Rather than figuring each firefighter's attendance and calculating their participation, the ordinance is proposed to be changed to reflect quarterly payments of the budgeted yearly amount. This change is mutually agreeable to the parties involved and is a more efficient process than currently used.

Legal Considerations:

- Current City Code provisions pertaining to organization of the fire department are dated and do not reflect recent changes in fire and EMS services.
- The proposed ordinance is consistent with charter ordinances describing the powers and duties of the city manager, including supervision of the fire chief and subordinate personnel.

Policy Considerations:

- None. This ordinance update represents only technical clean-up.

ORDINANCE NO. 1896

AN ORDINANCE AMENDING TITLE 2, ARTICLE VII OF THE MUNICIPAL CODE OF THE CITY OF DERBY, KANSAS; AND REPEALING ORIGINAL ARTICLES VIII AND IX OF SAID CODE.

MOTION: Warren moved to approve adoption of an ordinance amending Title 2, Article 8 of the municipal code and repealing original articles 8 and 9 of said code. Schwarz seconded.

DISCUSSION:

Council Member Craig asked about the difference between paying the \$2.25 and the quarterly payment of \$7,500. When he divided it up it is 3,333 responses if you are going to pay \$2.25 and take \$7,500 and divide that into it. He asked what the accruals are, are we paying less or more.

Chief Smith advised they normally budgeted \$7,500 a year and that is where that amount is coming from. In 2002 we paid out a little over \$8,800 and in 2003 \$4,600, in 2004 it was a little over \$5,000, in 2005 with the ice storm they paid out almost \$9,400, last year it was \$7,400. He

averaged those five years and a little over \$7,000 is what we have been paying out. This is a time consuming process and that was what we hoping to get away from.

Council Member Craig clarified that overall it is about \$7,000 to \$7,500 average.

Council Member Johnson asked where the Fireman's Relief Code go to now since we have a permanent fire department. It is a percentage that insurance companies pay on every premium dollar of insurance.

Chief Smith explained that paid and volunteers are treated alike, we cannot say that volunteers are not as good as paid or vice versa, it is by state statute.

Council Member Johnson explained there are only certain things that can be done with it, such as buy equipment. They used to buy accident and life insurance; they also, in Derby, went to universal life and asked if we were still doing that so the individuals can take that with them when they leave the department.

Chief Smith advised they are buying some life insurance. If a volunteer has been on the department for 20 years they can take an annuity with them. The state statute says you can use the money for liability insurance, health insurance, things like that for the firefighters.

Mrs. Epperson clarified that the money that Chief Smith is referring to goes into the Fireman's Relief Association Fund which is a separate entity that is not on the city's books but it is audited.

Council Member Johnson advised he was aware of that but the old volunteer fire department had complete control of that. Now, since we have a paid fire department if it also goes there and you have complete control of it. The Fireman's' Relief Code Act applies to all firemen.

Chief Smith explained the paid and volunteer firefighter's have complete control of that. They vote who is president and secretary.

Council Member Johnson clarified that they buy the insurance.

Chief Smith advised that was correct.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 6 yea, 0 nay, 2 absent, motion carried.

**PUBLIC
TRANSPORTATION
GRANT AGREEMENT
WITH THE CITY OF
WICHITA**

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

Background:

- Last year the City Council approved agreements with the City of Wichita for federal funding of public transportation within the City of Derby. A capital agreement provided \$50,000 grant funding for the acquisition of an ADA compliant bus, the Derby Dash, which began operation April 2, 2007.
- Ridership has been steadily increasing the past few months to providing 308 rides during June and is expected to climb further.
- The second agreement provided \$50,000 for the planning and preventive maintenance costs in the operation of the transportation program under federal fiscal year 2005 funding.
- An additional Interlocal Agreement is proposed to cover planning and preventive maintenance costs under federal fiscal years 2006 and 2007 for a maximum of \$75,000. The money will be used to fund the transportation program in 2007 and future budgets.
- The City of Wichita governing body approved this agreement June 5, 2007.

Financial Considerations:

- This agreement is similar to the current agreement in that the grant covers 80% of the planning, administration and maintenance costs.
- Total operating expenses in the 2008 Budget are projected to be \$76,857 with the City's portion at \$53,500.

Legal Considerations:

- The City Council is empowered to apply for and accept grants to support transportation services.

Policy Considerations:

- Interlocal agreements are an example of local government cooperation and in this instance of mutual benefit to both cities.

DISCUSSION:

Council Member Bannon commented on what a great program this has been and advised there is even a gentleman who has been able to get a job now that he has transportation.

MOTION: Bannon moved to authorize the Mayor to execute an Interlocal Agreement with the City of Wichita for the operation, planning and preventive maintenance of a public transportation program in the City of Derby. Warren seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 6 yea, 0 nay, 2 absent, motion carried.

**ORDINANCE REVIEW
ADVISORY BOARD &
DRC BOARD
APPOINTMENTS/
REAPPOINTMENTS**

Kathy Sexton, City Manager presented the staff report.

Background:

- At the June 12, 2007 City Council Meeting, the Council adopted an ordinance expanding the number of Ordinance Review Advisory Board positions from three to five.
- The Mayor would like to appoint Betty Wilken and Patricia Williams to fill the two additional positions. These individuals were selected from the pool of applicants for various city board positions received in May.
- Also, Chris Sexton's term on the DRC Board will expire in September 2007. The Mayor would like to reappoint Mr. Sexton for an additional 4-year term.

MOTION: Craig moved to appoint Betty Wilken and Patricia Williams to fill the two additional positions created for the Ordinance Review Advisory Board and reappoint Chris Sexton for an additional four-year term on the DRC Board. Warren seconded.

DISCUSSION:

Council Member Warren asked who the other city appointment was to the DRC Board.

Mayor Avello advised it was Elizabeth Baker.

Council Member Warren asked there were any way of talking with our representatives on the DRC board about what is important to us, other than the Inter-Governmental meetings held every three months. If we have concerns about how things are going over there that they report back to us and let us know what is going on and let us give input on some things we would like to see. A lot of people are calling us about parks and programs and it would be nice to be able to use our representatives as a way to get that across to them.

Mayor Avello advised he could talk to our representatives and have them give us a quarterly report. If there is something coming up that is important they could notify us.

Council Member Craig pointed out that the DRC Board meets the same night as the council and for them to break away every once in a while to give us an update would be appropriate. He is not sure if they can fit that in to their schedule or not but he does think there should be some mechanism of feedback that would get us some information from the DRC area so we are knowledgeable of some things they might want us to be involved in also.

Council Member Warren commented that he would be highly surprised if their meetings ran nearly as long as the council meetings. If put them somewhere in the middle to the latter part of the agenda once a quarter there would be a pretty good chance someone could be here.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 6 yea, 0 nay, 2 absent, motion carried.

CONSENT AGENDA

Kathy Sexton, City Manager presented the consent agenda.

HOME Rehabilitation Grant Bids

- In late 2006, the City of Derby received a \$225,000 grant award from the Kansas Housing Resources Corporation for a HOME Rehabilitation Program. The HOME Program provides funding for improvements to houses in a specified target area whose

owners and their households earn no more than 80 percent of the Sedgwick County median gross annual income.

- After accepting applications for candidates in early 2007, SCKEDD reviewed and ranked all 40 applications to determine a priority list. The first homes were inspected in April and a preliminary bid list was created for each.
- Each house is bid as a single project. A list of all improvements to be made to each home is provided by the project inspector/administrator to the contractors on SCKEDD's list of registered contractors.
- A bid opening was held at Derby City Hall on Tuesday, June 12 at 1:30 p.m. The following bids were received:

<u>Contractor</u>	<u>House #1</u>	<u>House #2</u>	<u>House #3</u>
Arambula Construction	\$17,773	\$14,984	<u>\$16,583</u>
Ken Stringer Construction	\$22,950	<u>\$12,235</u>	\$23,750
New Windows for America	<u>\$17,345</u>	\$14,330	\$17,845

- The lowest bid for each project/house, shown in bold type and underlined, has been recommended for approval by the City's Bid Board.
- This is the first phase of homes to be completed under the 2006 HOME grant. The projects will be bid and funds committed for a few houses at a time to ensure that the exact grant amount is spent.

Financial Considerations:

- The HOME Grant funds will cover two-thirds of the total project expenses. The City's matching contribution will pay for the remaining one-third of the project.
- The City will pay the contractors directly once inspections are completed and approved by the SCKEDD project inspector and the City building inspector. The City will request reimbursement from the State of Kansas, thus drawing down funds from the grant award.

Legal Considerations:

- As the program administrator, SCKEDD oversees the projects to ensure that all HOME Program requirements are followed, including federal procurement (competitive bidding) practices.
- All contractors are or will be licensed by the City of Derby prior to beginning work. All contractors meet the requirements set forth by the State of Kansas for participation as a contractor for the HOME program.

Policy Considerations:

- Upon approval of the bids, the grant administrator (SCKEDD) will prepare the contracts for the Mayor's signature.
- SCKEDD personnel will coordinate the scheduling of work and record the progress on each property.

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

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 6 yea, 0 nay, 2 absent, motion carried.

Council Member Craig asked if there were going to be anyone monitoring the contractors that will be working on these homes.

Ms. Sexton advised we have hired SCKEDD (South Central Kansas Economic Development District), they are our contract administrator, but they also work with our building inspector, he will be the one that monitors it.

Council Member Craig stated he was under the impression when we first started this that was a requirement that SKEDD be involved as the overall administrator; he just wondered who was going to do the actual physical tracking and follow-up.

Mayor Avello asked if the fact gasoline went up today was going to affect our budget.

Ms. Sexton commented that of all the things she said tonight she did forget to mention that. We have budgeted for 25% more in fuel in 2008 than in 2007. Who knows if it is the right amount, but it is a pretty safe bet to know it is going to go up.

Mayor Avello advised that the council has had some nice things to say today about the staff and Family Circle. He has had the honor all week, since Thursday of getting congratulations from many people in the City of Wichita. Like Mr. Schwarz said, they want to know how we are doing it. He has never worked with a bunch of people who pull in the same direction, we are coming from different ways but we are all pulling in the same direction, we all have this city at heart. When he tells them we do this with about 135 people they are astounded that we are doing what we are doing. He is honored to represent this city that way.

Council Member Craig commented on the cover of the budget, it is really noteworthy. He is not sure where the picture came from but it is really cool and sets the tone for what this city is all about. He thanked all those that put it together.

ADJOURNMENT

MOTION: Warren moved to adjourn. At 11:35 p.m. Craig seconded.

VOTE: Craig yea, Meidinger absent, Johnson yea, Warren yea, Schwarz yea, Bannon yea, Staats yea, Arnold absent, 6 yea, 0 nay, 2 absent, motion carried.

Dion P. Avello, Mayor

ATTEST:

Jean Epperson, City Clerk